MASS. EA31.2:D493/6

DEVELOPMENT AND EVOLUTION OF FISHERY MANAGEMENT PLANS FOR COD, HADDOCK, AND YELLOWTAIL FLOUNDER

GOVERNMENT DOCUMENTS
COLLECTION
JAN 4 - 1994
University of Massachusetts
Depository Copy

by

David E. Pierce

Massachusetts Division of Marine Fisheries
100 Cambridge St.
Boston, MA 02563

Funded by the New England Fishery Management Council

833/36

DEVELOPMENT AND EVOLUTION OF FISHERY MANAGEMENT PLANS FOR COD, HADDOCK, AND YELLOWTAIL FLOUNDER

by

David E. Pierce

Massachusetts Division of Marine Fisheries
100 Cambridge St.
Boston, MA 02563

Funded by the New England Fishery Management Council

Publication #: 13233-133-50-5-83- C.R.
Approved by John J. Manton, State Purchasing Agent

Plan rationale

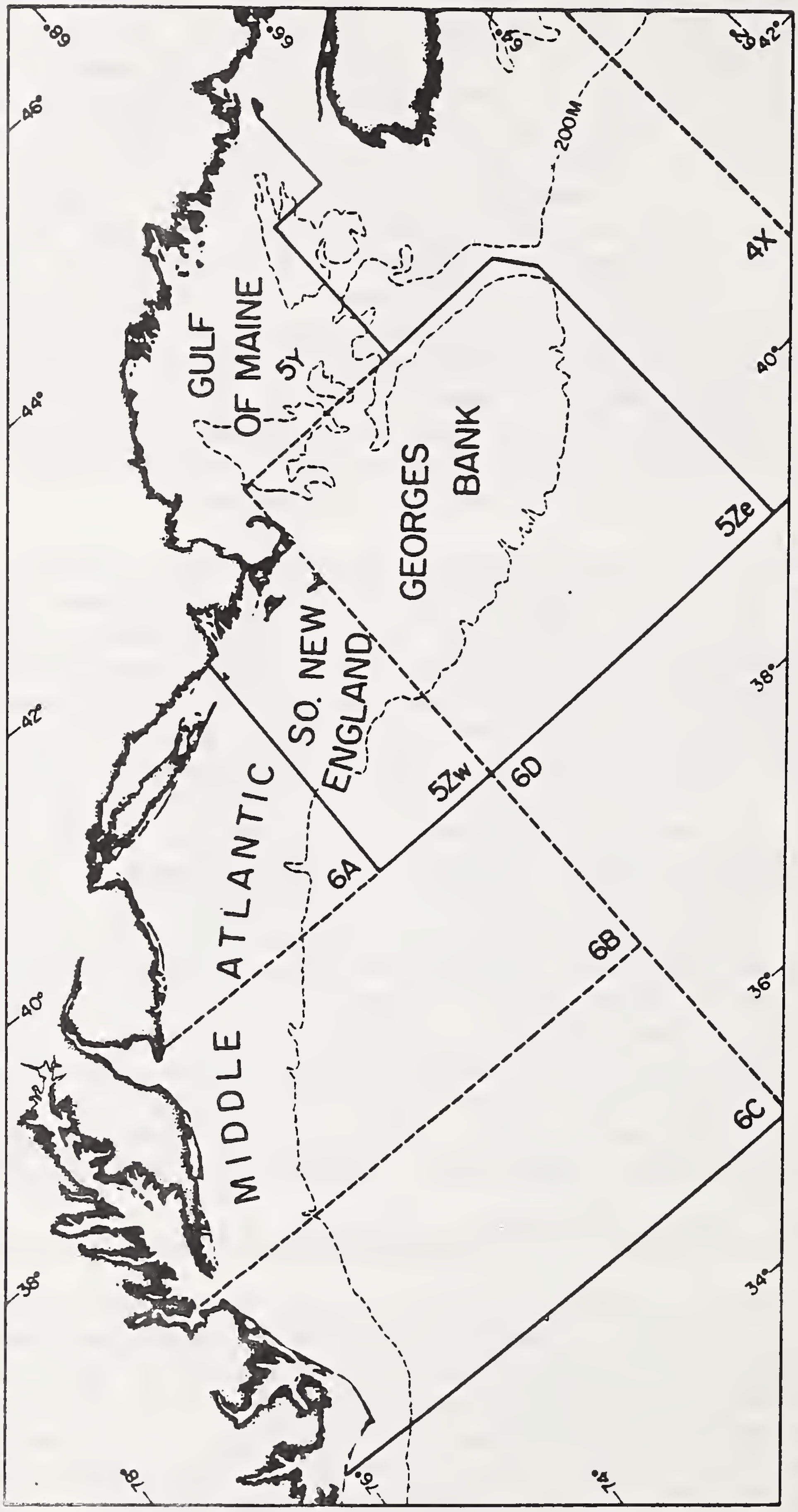
In January 1977, a Draft Environmental Impact Statement/Fishery Management Plan (DEIS/FMP) for groundfish (cod, haddock and yellowtail flounder) was published. The proposed Plan was written to manage "seriously depleted New England stocks of groundfish" following March 1, 1977 implementation of the Fishery Conservation and Management Act (FCMA) which was signed into law on April 13, 1976. Previous to this date and until December 31, 1976, cod, haddock and yellowtail flounder were regulated by the International Commission for the Northwest Atlantic Fisheries (ICNAF) and subsequent agreements between the 18 signatory nations. The proposed Plan - drafted by the National Marine Fisheries Service (NMFS) at the request of the New England Fishery Management Council and modeled at least in part on ICNAF management schemes - recommended quotas, closed spawning areas, mesh size restrictions, fish minimum size regulations, and a trip limitation for yellowtail flounder.

Impetus for the Plan was provided by the two month period between the time when the U.S. withdrew from ICNAF (12/31/76) and the FCMA was implemented, and a fear by federal officials that during this time unrestricted U.S. fishermen would increase their efforts towards groundfish, particularly haddock, thereby preventing stock recoveries from impacts of foreign fishermen (and U.S. fishermen). Since the Council was not fully organized in late 1976, it was not prepared to address need for control of U.S. fishermen and groundfish management. In a sense, the Council inherited initial strategies for groundfish management from NMFS in an environment where status, or health, of groundfish stocks was the controlling influence on selection of management strategies. For example, the first Council Chairman, Hal Lyman, is quoted as saying, "The law (FCMA) says you must protect the resource. And anything you can do to keep the industry alive, good, but that is not your major job. Your major job is to protect the resource" (Saft, National Fisherman 1978 Yearbook).

Scientists' advice and Plan recommendations for 1977 catches

Cod. At the end of 1976, scientists advised managers that 1977 5Y (Gulf of Maine) and 5Z/6 (Georges Bank and South) (Figure 1) commercial cod catches be set to result in a relatively low fishing mortality of 16.5% (percent of stock removed each year due to fishing). Catches of 3,200 metric tons (MT) (5Y) and 15,000 MT (5Z/6) were assessed to correspond to this value of fishing mortality. From 1970-1974 it was calculated that average commercial U.S. and reported foreign catches (combined) of 7,400 MT (5Y) and 26,500 MT (5Z/6) represented average removals (or mortality) of 38% of each stock per year. This 38% figure was greater than the percentage

Figure 1



Source: Anderson et al. 1979

removal thought to be needed for increases in abundance of stocks (16.5%). A higher value was not recommended since there was concern that fishing much beyond 16.5% might lead to further decreases in abundance and possible recruitment failures due to low spawning stock sizes. Maximum sustainable yields (MSY's) or catches for 5Z/6 and 5Y cod commercial fisheries were assessed to be 50,000 MT and 10,000 MT, respectively. By restraining catch in 1977, it was hoped that stock sizes would increase in order that MSY's could eventually be harvested on a continuing basis.

Considering economic and social inputs provided mainly by U.S. commercial fisheries advisors, scientists' recommendations were adjusted upwards by NMFS and Council managers to 5,000 MT (5Y) and 20,000 MT (5Z/6). Note: While the proposed Plan stated these catch levels would not limit the U.S. commercial fishery in 1977 since catch in prior, recent years was less, unfortunately it did not explicitly point out that this was true only if combined 5Y and 5Z/6 cod catch (22,590 MT average 1970-1974) was the basis for comparison. For example, average 1970-1974 5Y U.S. catch was 7,135 MT; 5Z/6 catch was 15,455 MT. Provisional 1975 5Y cod landings of 9,252 MT were the highest in a 1960-1975 time series. Therefore, the 5Y cod fishery was potentially very restricted by the 5,000 MT quota for 1977; the 5Z/6 fishery, however, was not restricted, as correctly noted.

Regarding the cod recreational fishery, expected 1977 catches were judged to be 2,300 MT (5Y) and 10,000 MT (5Z/6). NMFS Saltwater Angling Surveys in 1970 and 1974 were used for these approximations. Summations of these amounts and 1977 commercial quotas led to cod optimum yields (OY's) of 7,300 MT (5Y) and 30,000 MT (5Z/6).

Haddock. As summarized by Clark and Palmer (1977):

> "Three haddock stocks are recognized off the northeastern coast: the Georges Bank stock and two small stocks in the eastern Gulf of Maine one of which appears to be resident to the Nantucket Shoals-Jeffreys Ledge area while the remaining stock undertakes seasonal migrations between this area and the Passamaquoddy Bay region. The latter two stocks overlap to some degree and movement from the Jeffreys Ledge and Nantucket Shoals areas out to the northwestern part of Georges Bank has also been documented... In view of current low levels of abundance and uncertainty relative to stock interrelationships, haddock off the northeastern U.S. coast has been managed as a unit in recent years although analytical assessment work has been performed only for the Georges Bank stock."

These Georges Bank assessments were used to set the 1977 quota for all of Area 5. Trends in haddock abundance of the "5Y stock" have parallelled those on Georges Bank based on historical observations.

The proposed Plan noted a pronounced decline in haddock abundance since 1967 with recruitment being generally poor. According to a NMFS assessment (Clark 1976), "projections for 1976 and 1977 indicated that if recruitment continued at the average level observed during 1972-1975, maintaining the existing ICNAF total allowable catch level (TAC) of 6,000 MT would lead to stabilization of stock size in the late 1970's at only approximately one half of the pre-1960 level....an increase in TAC could lead to a substantial reduction in abundance". Stock size (age two and older) from 1935-1960 averaged 145 million fish. At the beginning of 1977, stock size was estimated to be approximately 66 million fish.

Based on this assessment information, the proposed Plan recommended that catches of haddock taken from the Gulf of Maine and Georges Bank (Area 5) be limited to 6,200 MT for commercial and recreational fisheries. Of the 6,200 MT, 6,000 MT was to be taken as incidental or undirected by-catch; that is, unavoidable catch of haddock taken when fishing for other species. From 1974-1976 total landings averaged 6,000 MT under ICNAF by-catch limitations with U.S. landings averaging 4,300 MT or 72% of the total. The remaining 200 MT was an implied recreational quota although not stated as such in the proposed Plan. The NMFS 1974 Saltwater Angling Survey indicated a catch of only 200 MT. Therefore, the OY was 6,200 MT, and, as with cod, the intent of the proposed Plan was to keep "removals at the lowest possible level to allow for rapid recovery of the haddock stock to the MSY level (approximately 47,000 MT)."

Yellowtail flounder. Assessment information presented in the proposed Plan indicated that yellowtail flounder stocks west of 69° W. Longitude were "severely depressed". This appraisal was based on NMFS bottom trawl survey abundance indices and catch rates of commercial fisheries both showing significant declines in yellowtail abundance. For example, abundance of pre-recruits (age 1 fish) from autumn surveys showed a drastic decrease (90% since 1969) for the Southern New England stock. It was also estimated that Southern New England flounder stock size had decreased by approximately 80% between 1970 and 1977 and that fishing mortality in recent years was greater than 63%. Scientists recommended that fishing mortality should be around 33% to provide for stock recovery.

The outlook for the Georges Bank stock (east of 69°) did not look as bleak although it was not promising either. Year-classes supporting the fishery in 1976-1977 were predicted to be less abundant than those supporting the fishery in 1970-1973; commercial catch per day had decreased from an average of 2.6 MT per day from 1970-1973 to 1.7 MT in 1975; and, fishing mortality on age two fish appeared to have doubled since the early 1970's.

Final advice of the scientists (as stated in the proposed Plan) was:

> "Because of depressed conditions of yellowtail flounder stocks in Subarea 5 west of 69° and Statistical Area 6, a total allowable catch of zero is necessary for 1977 (with knowledge that unavoidable catch may approach 4,000 MT) if further declines are to be avoided. Even if catch is held to only 4,000 MT in 1977, no stock recovery is expected without improved recruitment. While recruitment may be strongly related to temperature, further stock declines could threaten recovery of the fishery when more favorable conditions do occur."

For yellowtail east of 69° it was advised that a catch of 7,000 MT would result in a 10% stock size increase. Fishing at a constant rate of 33% (assuming constant recruitment) would allow an annual harvest of 12,000 MT in 5-6 years with an increase in stock size to that which existed during 1962-1973 when catches averaged approximately 16,300 MT (MSY 16,000 MT).

Utilizing scientists' advice, the proposed Plan recommended for yellowtail:

> "From an ecological viewpoint catch from both stocks (east and west of 69°) should be reduced as much as possible in order to increase the spawning biomass and provide a buffer against recruitment failures. However, this would cause undue economic hardship for the harvesting sector and coastal communities. Accordingly, we recommend optimum yields of 10,000 MT for area 5Ze and 4,000 MT for areas 5Zw and 6. These harvest levels should provide for adequate rates of stock recovery without causing substantial, adverse, short-term economic impacts. Over the long-term, recovery of these stocks should result in some economic growth of the harvesting sector and secondary benefits for coastal communities."

The early stages

Using the DEIS/FMP, NMFS issued - with the Council's approval - 45 day emergency fishing regulations effective mid-March 1977 with the understanding that the Council could alter them once it decided on permanent 1977 regulations. The emergency regulations were scheduled to expire on May 1, 1977 with the option to extend them another 45 days if the need existed.

Those regulations were:

Species	Management Area	Quota (metric tons)
Cod	5Y (Gulf of Maine)	5,000 - commercial 2,300 - recreational
	5Z/6 (Georges Bank & southern New England & mid-Atlantic)	20,000 - commercial 10,000 - recreational
Haddock	5 (Gulf of Maine & Georges Bank)	6,200 (by-catch)
Yellowtail flounder	5Ze (only east of 69° West Longitude)	10,000
	5Zw/6 (only west of 69° West Longitude)	4,000

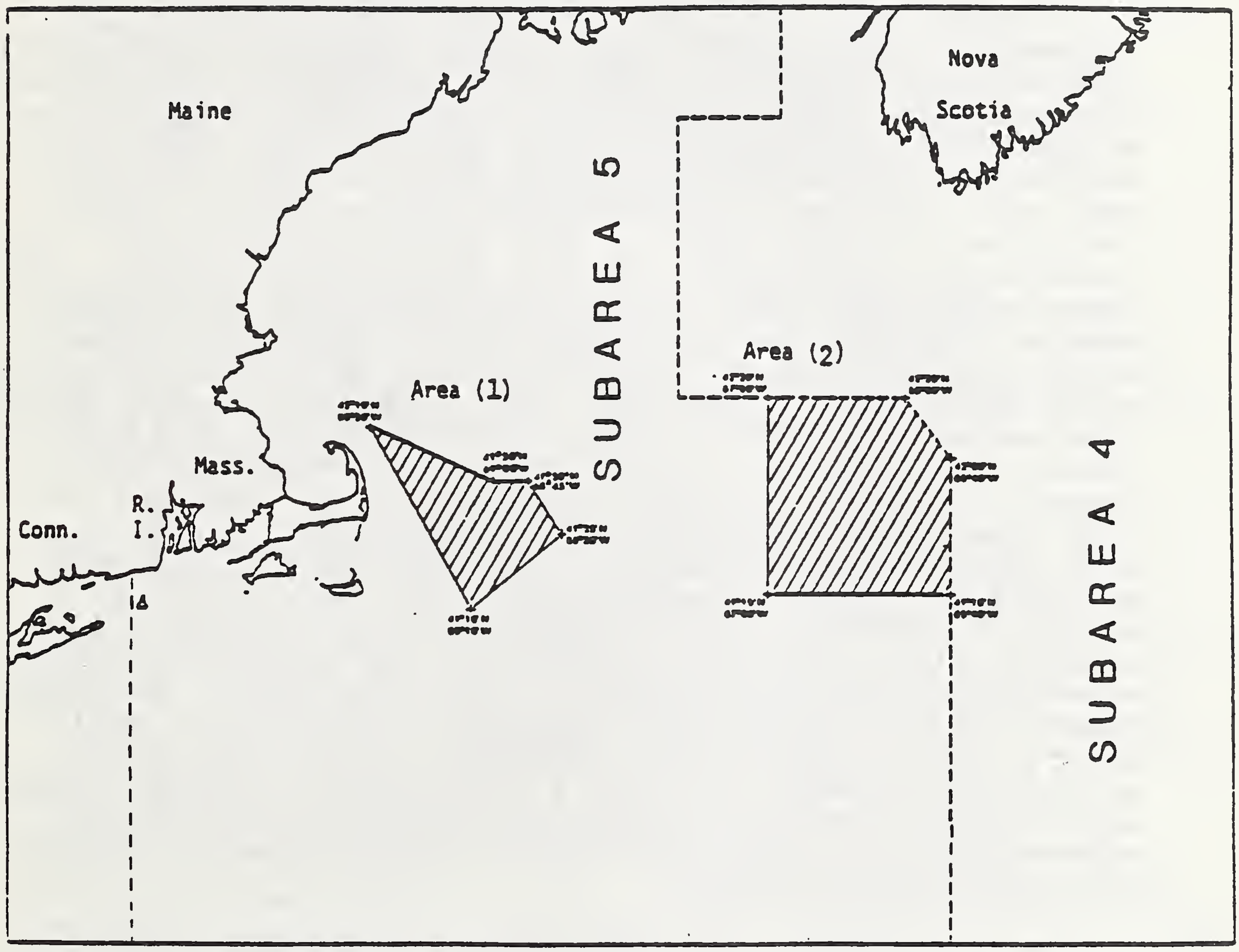
Other management measures recommended in the Plan were:

Mesh size - 5 1/8" in the cod-end; 4 1/4" in other parts of the net

> In fisheries where small amounts of cod, haddock, and yellowtail flounder are taken; e.g., whiting and redfish, smaller mesh can be used provided amounts of cod, haddock, and yellowtail flounder in possession do not exceed 5,510 lbs. for each species or 10% by weight of all fish on board, whichever is greater.

Closed spawning area	March thru May (see Figure 2) with an exception for mid-water gear, scallop dredges, and hook fishermen using hooks with a gape of 3 centimeters or greater.
Fish minimum sizes	Haddock: for 1977, 420 mm (16.5") 1978, 520 mm (20.5") Cod: for 1977, 400 mm (15.7") 1978, 520 mm (20.5")
Landing limitation	Yellowtail flounder: 5,000 lbs. per man with maximum of 30,000 lbs. per trip (Massachusetts landing limit).

Figure 2


Maine
Nova Scotia
SUBAREA 5
Area (1)
Area (2)
Mass.
R. I.
Conn.
SUBAREA 4

The Council's Groundfish Oversight Committee worked to develop final regulations before the quickly approaching May 1, 1977 deadline, and in April, the Council acted on Committee-proposed changes in the emergency regulations. It decided to change the yellowtail landing restriction to 5,000 lbs. per man per trip with a maximum of 25,000 lbs.; to provide a maximum 10% tolerance by weight of cod and haddock each less than the minimum sizes; to allow no more than two cod and/or haddock per recreational fisherman per trip less than the minimum size; and, to make available a haddock optional settlement agreement for boat owners.

Knowing that its final 1977 provisions could not be implemented before May 1, the Council requested the Secretary of Commerce to extend the emergency regulations until mid-June. An extension occurred just prior to this May 1 deadline, and on June 10 final regulations were implemented. These final regulations included the DEIS/FMP spawning area closures, mesh size restrictions, and haddock and yellowtail quotas, the latter (but only east of 69°) being divided by NMFS into calendar year quarterly quotas to spread catch over the year. These regulations also included the commercial cod quotas; however, recreational cod quotas were eliminated because of their arbitrary nature and doubts that recreational fishermen could catch their allocation. The yellowtail landing restriction became that of the Council's choosing, but an additional provision was included by the Council to strengthen its intent to reduce yellowtail catch west of 69° (maximum of 5,510 lbs. or 10% by weight of all other fish on board per trip, whichever was greater). Moreover, trip limits were included for haddock: maximum of 5,510 lbs. or 10% by weight of all other fish on board per trip, whichever was greater unless an optional settlement was arranged in which case the percentage increased to 20% until 80% of the total haddock by-catch quota was reached at which time it would revert back to 10%. Along these same lines, when 80% of either the haddock or west of 69° yellowtail flounder quotas were reached, the NMFS Regional Director could authorize reduction in the 5,510 lbs. or 10% limit to prevent overage of either by-catch quota.

A significant part of these final regulations - which didn't seem too important at the time - was the stipulation that the Regional Director was to close fisheries; i.e., was to stop the taking of any cod, haddock, or yellowtail flounder, when total catch of any of the species - with allowance for expected incidental by-catch for the rest of the year - equalled 100% of the quota. This decision effectively made it mandatory for the Regional Director to close. He and the Council had no flexibility to take any other action regardless of the economic consequence to the industry or any sort of extenuating circumstance.

Other regulations were: the need for commercial vessels over 100 GRT to maintain an accurate logbook every 12 hours, and vessels less than 100 GRT carrying passengers for hire were to maintain a daily log.

Canadian consideration

Compounding difficult decisions being made by the Council during early 1977, was the uncertain status of joint management and utilization of fisheries resources off U.S. and Canadian coasts. Since 1973, U.S. and Canada had an annual agreement allowing both countries to fish up to 3-12 miles from each other's coast. Shares of resources there and in Gulf of Maine and Georges Bank waters were determined through ICNAF. With both countries adopting a 200 mile limit (Canada on January 1, 1977) claiming exclusive management authority and conservation rights within their own zones, it was clear that both countries needed to reach a more permanent agreement.

In the interim, on July 26, 1977, a U.S.-Canadian Reciprocal Fishing Agreement was signed into law by the President. This Agreement allocated to Canadians 3,350 MT of cod and 1,260 MT of haddock from 5Z, 80 MT of cod from 5Y, and 90 MT of yellowtail east of 69°. These catch levels were what Canadians would have received if the U.S. had remained in ICNAF for 1977.

With the Agreement's signing, the U.S. 5Z/6 cod quota was reduced accordingly from 20,000 MT to 16,650 MT; the area 5 haddock quota dropped from an already low figure of 6,200 MT to 4,940 MT. Canadian cod and haddock shares were, therefore, 27% and 20%, respectively. Similarly, yellowtail east of 69° and 5Y cod quotas were reduced, but by smaller margins. The only other alternative open to the Council was to increase OY's to compensate for Canadian shares so as not to reduce amounts available to U.S. fishermen; however, considering the depressed nature of stocks and need for rebuilding, attempts to convince the Secretary of Commerce to approve increased OY's were not made. Spencer Apollonio, then Executive Director of the Council, was quoted as saying at one of a series of public meetings in early September, 1977 to explain the quota reductions to the industry, "To add the 3,400 MT was too much. It wouldn't be in the best interests of conservation." (Donnell, Maine Commercial Fisheries, October 1977). To prevent economic hardships on fishermen, the Council had already established a 25,000 MT 5/6 cod quota that was 6,800 MT higher than scientists' recommendations. It did not seem wise to expand OY's any further. Scientists' advice was respected and heeded by the Council. Biological concern and conservation were paramount - so it seemed.

Problems develop

Impending problems with management of the groundfish fishery became evident on July 15, 1977. With only a little more than 50% of the calendar year gone, optional settlement agreements for haddock and yellowtail west of 69° were terminated meaning that 80% of by-catch quotas of 6,200 MT for haddock and 4,000 MT for yellowtail west of 69° had already been taken. Percentage of the haddock by-catch quota already taken became much larger on July 26 when the U.S.-Canadian Reciprocal Fisheries Agreement became law and the 6,200 MT haddock quota was reduced to 4,940 MT.

The first real crisis in groundfish management was precipitated by a series of cod fishery closures: 5Y on July 8 and 5Z/6 on August 22, 1977. The Canadians had closed their directed cod fishery on Georges Bank on August 9. Consequently, the entire U.S. cod fishery became one of by-catch (5,510 lbs. per trip or 10% by weight of all other species on board whichever was greater).

With prospects for a severely restricted cod fishery until January 1, 1978 when the new fishing year began, the Groundfish Committee met three times (once with industry advisors) prior to the Council's September 7 and 8 meetings to develop strategies to "balance the economic impact of closures against the need to conserve and rebuild the depleted cod stocks" (Council News Release 9/8/77). At the Committee's last meeting, on the day before the September 7 Council meeting, after listening to a NMFS evaluation of fishermen's cost earnings statements and evaluating total number of boats, trips, and pounds of cod landed in 1976 through August 1977, and after a great deal of debate, confusion, and indecision, the Committee recommended allowable cod by-catch limitations for the remainder of 1977 on a vessel class basis. These and other recommendations to the Council were as follows:

1)	less than 50 Gross Registered Tons (GRT)	2,000 lbs.landed per trip or 10% of catch by weight whichever greater
	50-150 GRT	7,500 lbs. "
	greater than 150 GRT	15,000 lbs. "

2) No discards of cod.

3) No decline in cod biomass be permitted in 1978.

4) Total allowable catch for 1978 be set to prevent cod decline by taking into account excess catch of 1977.

5) To have the Council decide whether to maintain or rebuild cod stock size in 1978.

Intent of the vessel class breakdown (existing NMFS classification) was to take into account perceived needs of the various sized vessels.

In making its recommendation, the Committee was placed on the "horns of a dilemma". It was frequently reminded, particularly by William Gordon, then NMFS Regional Director, of the status of the cod resource, and to have liberalized by-catch regulations approved by the Secretary of Commerce, the Council would have to account for 1977 overages by way of 1978 quotas; in other words, the greater 1977 catch was allowed to go, the more likely that 1978 quotas would need to be more restrictive to allow for stock rebuilding. To make matters worse, Council staff estimated that the Committee's recommended by-catch regulations would result in an additional 9,000-13,000 MT over the combined area 5/6 cod quotas by the end of 1977 for a catch of 34,000-38,000 MT (15,800-19,800 MT greater than the scientists' recommendation for a TAC).

A difficult two days

The September 7, 1977 Council meeting was devoted almost exclusively to groundfish and the Committee's recommendations. The audience was unusually large (one estimate of over 180 fishermen) and many took the opportunity to express their views on current and future groundfish management. In fact, as typical of early Council meetings where groundfish was a central issue, the audience spoke as often as Council members. This often led to disjointed, hard-to-follow discussions and confused decisions.

That evening, the Groundfish Committee met again to reconsider its original recommendations based on comments heard that day. Again, after a great deal of debate and uncertainty and many hours into the evening, new recommendations increasing allowable cod by-catch limitations during closures were formulated. Vessel class categories were also modified. They were:

Vessel Size	Limitation
less than 50 GRT	2,000 lbs. per day
50-125 GRT	2,500 lbs. per day
greater than 125 GRT	3,000 lbs. per day
fixed gear	12,500 lbs. per week

For vessels with trips of more than 3 days, 2 days were to be deducted for steaming time; e.g., on a 7 day trip 15,000 lbs. of cod could be landed by a greater than 125 GRT vessel (or 10% of catch whichever was greater).

When an additional 8,000 MT was landed, the by-catch provision was to revert to the 5,510 lbs. or 10%/trip.

The Committee reaffirmed its remaining recommendations; i.e., no discards, no decline in cod biomass was to be permitted in 1978, and total allowable 1978 catch was to take into account excess 1977 catch.

On September 8, for most of the day, the Council again discussed groundfish. It eventually accepted the Groundfish Committee's new recommendations but was even more definite on its attitude towards stock recovery. It decided that the general Council goal should be to increase cod biomass. An additional decision was to waive the 16" minimum size limit for the remainder of 1977 for the commercial fishery to oblige the no discard stipulation and surprisingly, to set a bag limit of four cod per person per day for recreational fishermen.

These decisions were again made in a tumultuous atmosphere. Comments and criticisms from the audience caused the Council to vacillate on many issues. The bag limit for recreational fishermen was an "off the cuff" decision brought about by audience complaints that if the commercial fishermen had to be restricted then so should recreational fishermen. The Council's image and credibility as decision makers and pilots in the fishery management process were damaged in many people's eyes.

These recommendations for emergency action were sent to the Secretary of Commerce for her approval. Until that approval, the cod closures and 5,510 lbs. or 10% by-catch restriction per trip remained in effect. As described below, it took until November 9, 1977 before Secretarial approval was obtained.

These September meetings set the tone for 1978. NMFS scientists were requested by the Council to provide their opinions on projected 1977 catches and required quotas for 1978 to result in stock rebuilding. The outcome of their advice was no directed fishing for 5Y cod should be allowed and only a 12,000 MT 5Z/6 cod catch should be permissable. Based on this advice, it was evident that the more the Council tried to placate the industry for 1977, the greater would be the price to pay for 1978 in terms of allowable catch. As one fisherman put it, "The Council borrowed from Peter to pay Paul".

Public reaction to these Council recommendations was generally unfavorable. Recreational fishermen; i.e., party and charter boat captains, upset over the arbitrary bag limit, said they would contact the Secretary to urge her disapproval. The per day cod limitations were considered by commercial fishermen to be impossible to enforce since it would be extremely difficult to know how long boats were at sea and fishing. The smaller cod limit for vessels under 50 GRT was felt by many to be unfair because, in their opinions, larger vessels were responsible for the depressed stocks; hence, smaller vessels were entitled to the greatest share of the additional 8,000 MT of cod recommended by the Council. Large boat fishermen from Gloucester and New Bedford claimed cod limitations were not large enough to enable them to pay their bills. State of Maine fishermen whose cod catches usually occurred late every year when cod moved towards the east along the coast, expressed concern that they did not have the opportunity to acquire "their share" of the resource before the closure, and they could not see how the Council recommendations would prevent this situation from being repeated in 1978. Everyone, however, seemed to agree that steps should have been taken to prevent 1978 closures and a repeat of 1977 economic difficulties.

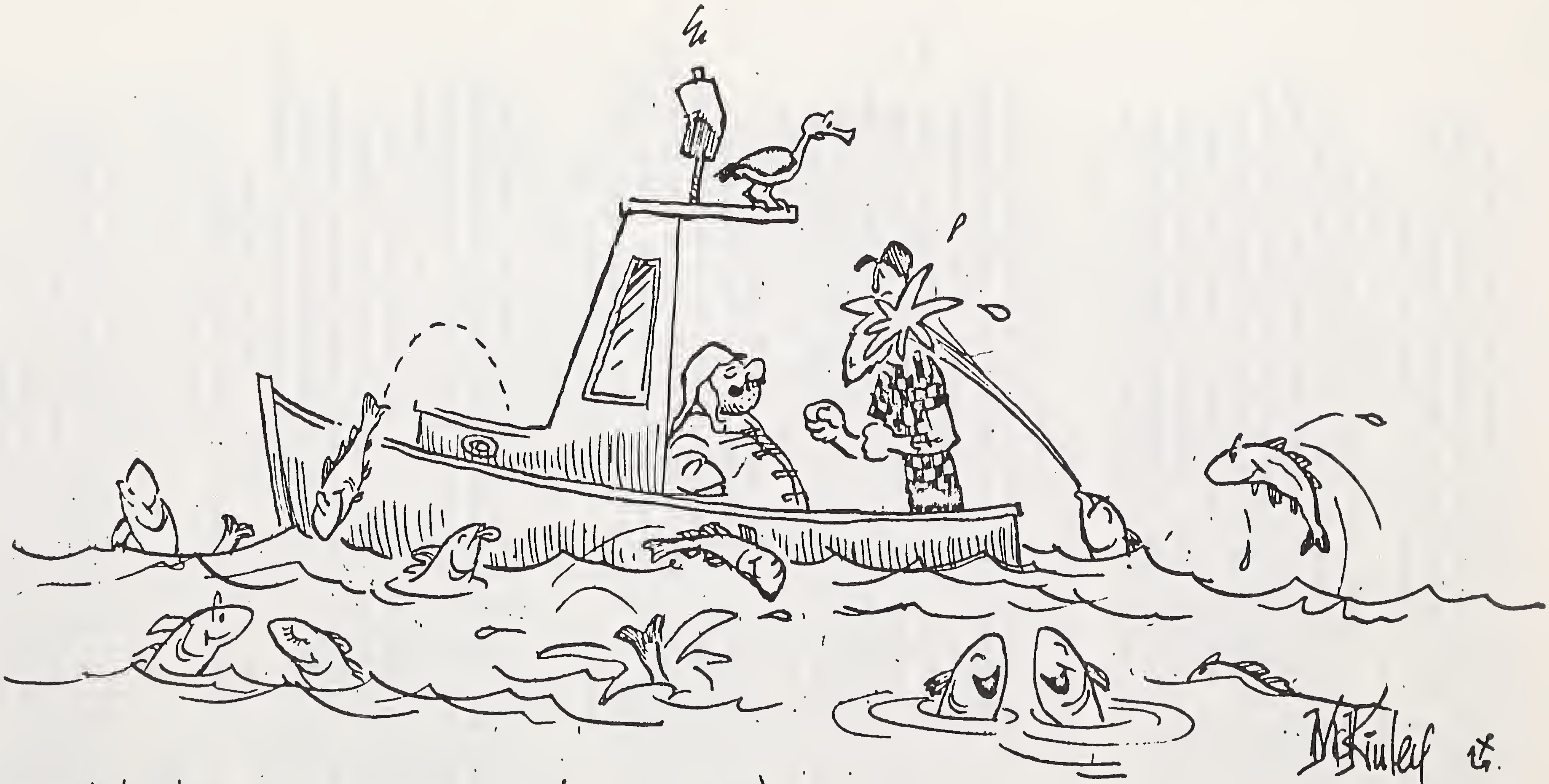
Groundfish stock assessments questioned

September meetings marked the beginning of a long period of great debate over accuracy of cod, haddock, and yellowtail flounder stock assessments. There appeared to be a contradiction between what fishermen were catching and what scientists were saying was available to catch (see cartoon). Landings in the early part of 1977 seemed to be supportive of many fishermen's claims that cod were everywhere, and they couldn't be avoided. During the first four months of 1977, "Codfish landings throughout New England were nearly twice what they were the previous spring (13.4 million pounds compared to 7.3 million pounds)...Piers in Gloucester and New Bedford were groaning under the load of spring landings and there was much concern that processing houses for frozen fish were going to be grossly inadequate. Processors were running their facilities seven days a week in June and adding extra shifts, and still they could not keep up with the boats" (Townes and Cole 1977).

Because of these high 1977 landings, fishermen and ultimately Council members questioned the scientists' bottom trawl survey sampling methods and assessment results. Consequently, NMFS scientists made a major effort to educate the public on how they assessed stock abundance. Others also tried to explain what information scientists used to perform their assessments and how it was gathered, what assessment results actually indicated, and what the role of assessments was in setting OY's by the Council (Peters, Maine Commercial Fisheries, November, 1977; Pierce and Hughes, 1979). Nevertheless, from this point on a credibility gap formed (see cartoon).

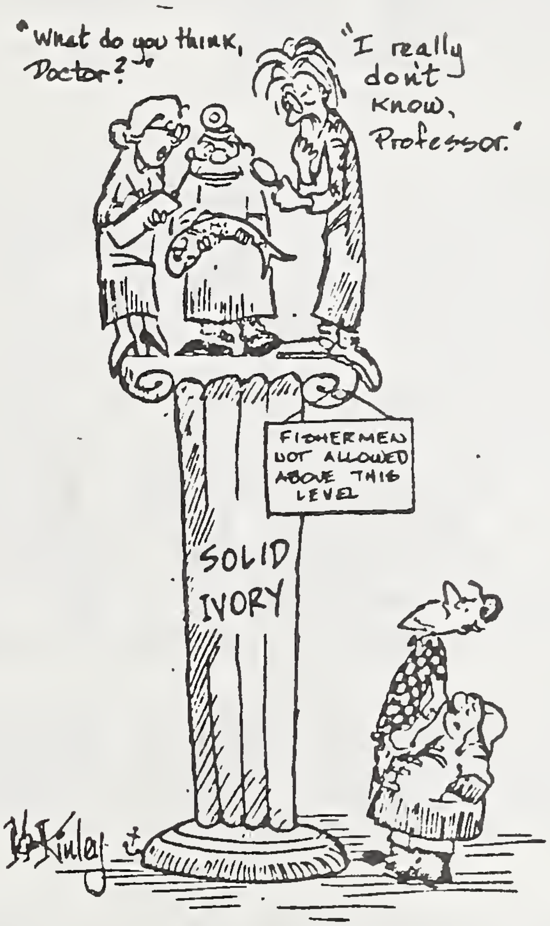
Progress is hampered

On September 12, the Groundfish Committee met with industry advisors to begin discussions on 1978 regulations which were due in Washington on September 15; that is, in order to get new, non-emergency regulations in place for January 1, 1978, this deadline had to be met.



"Hold your temper, Caleb. We can't molest them cod 'till the stock builds up."

Maine Commercial Fisheries
September 1978


"What do you think, Doctor?"
"I really don't know, Professor."
FISHERMEN NOT ALLOWED ABOVE THIS LEVEL
SOLID IVORY
McKinley

Maine Commercial Fisheries
May 1978

Unfortunately, delays in mesh selectivity experiments (two months by the Council standard) - commissioned earlier by the Council to determine appropriate mesh sizes for the groundfish fishery - and incomplete bottom trawl surveys (both survey vessels had mechanical problems) on which to base 1978 quotas, prevented any decisions. The Committee could only continue discussions on seasonal quotas for cod and haddock. Seasonal quotas had been discussed at the September 7 Committee meeting.

The Committee outlined in a letter to the Secretary of Commerce steps by which the Council proposed to acquire information needed to make appropriate modifications to the Plan and emphasized that those steps (beyond Council's control) were being taken as rapidly as possible.

Council concerns

At October 12 and 13, 1977 meetings, the Council asked for the status of its emergency regulations submitted in mid-September to the Secretary of Commerce. The Regional Director stated that the recommendations relative to the recreational fishery (four fish per man per day) and the no discard rule represented radical changes from the original FMP and thus delayed a final Secretarial decision. Also, since the FCMA stated that OY should not be exceeded, the Regional Director felt it was likely the Secretary might rule that all retention of cod, haddock, and yellowtail flounder (even east of 69°) must be prohibited; hence, tie up the fleet. The Council decided to telegraph the Secretary to determine her position.

The Council also sent another telegram to the Secretary to express its concern over a failure of the federal government to prosecute violators of existing regulations. The telegram read:

> "Administrative delays by the Federal government in the prosecution of violations of domestic fishing regulations established under PL 96-245, Fishery Conservation and Management Act, have caused serious social, economic, and biological problems within the New England fishing industry. The government's failure to prosecute quickly and effectively appears to condone violations to the detriment of the living marine resources and to law-abiding fishermen. The credibility of the Council's management effort is threatened by this uneven application of the law. Further delay in prosecution of violations is unacceptable. All measures available under civil process including forfeiture of the illegal catch should be immediately implemented by the Federal government."

The Council's concern originated in part from fishermen's statements such as; "If a guy stocks $100,000 in illegal fish and gets a few thousand in fines, what's the big deal. He's laughing at the guy who is honest." (Townes, National Fisherman, December 1977) and "It appears that crimes pays. Those fishing legally are getting angry. There will be shootings on the docks if something isn't done now." (Barlow, Maine Commercial Fisheries, November 1977).

At these October meetings, two other important events occurred. First, it was learned that results of the fall NMFS bottom trawl survey would not be available until at least February of 1978. The Council needed those results in 1977 to assist its determination of 1978 quotas. Therefore, the Council had to plan to set tentative, conservative quotas for the beginning of the year to prevent unregulated fisheries after the 1977 Plan ended on December 31, 1977. Secondly, the concept of limited entry into fisheries was discussed to acquire Council member viewpoints. The Regional Director virtually guaranteed that the Secretary would not accept the Groundfish Plan for 1978 unless something was built into the Plan to prevent catches from exceeding OY's; i.e., some kind of effort control. Thus, seeds of a possible need for limited entry in the groundfish fishery were planted in the public's mind especially when it was learned that a conference on limited entry supported by NMFS was being planned for the summer of 1978, and the Council intended to use that conference as a learning tool and basis for future management actions involving limited entry. Growing concern over possible future limited entry appeared to prompt fishermen to acquire groundfish permits to hopefully assure access to the fishery. For example, there was an increase of approximately 50% in the number of vessels licensed to harvest groundfish from 1977 to 1978.

At these meetings the Council also learned that 80% of the 10,000 east of 69° yellowtail quota had been taken. The Council voted to recommend to the Secretary that the fishery remain directed and not be changed to one of by-catch. The Council also voted to request the Secretary to extend the 1977 FMP (specifically the quotas and mesh regulations) into 1978 and to wait for detailed modifications later on.

Unexpected changes

On November 3, 1977 the Council's emergency groundfish regulations were implemented and were discussed at the November Council meetings. However, these regulations differed from those submitted to the Secretary in September. The by-catch, vessel class limitations (2,000, 2,500, and 3,000 lbs./day and 12,500 lbs./week) now applied to cod, haddock, and yellowtail - not just cod. Also, the limitation for fixed gear fishermen was increased to 16,000 lbs./week for each species. The no discard provision was not accepted.

Unexpectedly, OY's were raised as follows:

haddock	(5)	6,200 to 10,500 MT	
cod	(5Y)	5,000 to 12,000 MT	
	(5Z/6)	20,000 to 21,650 MT	
yellowtail	E 69°	10,000	no increase
	W 69°	4,000 to 6,000 MT	

Whether or not the increased quotas and by-catch allowances of haddock and yellowtail W 69° were desirable, the manner in which the regulations were changed to include all three species was of great concern to the Council. After a wait of approximately six weeks to discover the status of its recommendations, Council members were polled by phone by the Regional Office of NMFS to determine if the Council would approve these alternative recommendations. A two hour deadline was given for a decision and reportedly, it was a "take it or leave it" offer; otherwise, the 5,510 or 10% would remain in effect for the remainder of 1977. Most members reluctantly gave their approval.

As a result of this hurried and unorthodox decision-making process, the Council requested then Director of NMFS, Robert Schoning, to meet with the Council to discuss changes made in emergency regulations and conditions surrounding them.

Other November business involved a repeat vote to extend the 1977 Plan into 1978 until the 1978 Plan was completed. This was done to respond to time pressures but raised potential problems since an extension of the original 1977 Plan into 1978 would have meant that fishermen could fish on entire annual quotas with no trip limits (except for 5,510 lbs. or 10% for haddock and yellowtail west of 69°). This would have led to an unrestricted fishery for the first quarter of 1978. There was justifiable concern that once total 1977 catch (cod as well as haddock) was determined and NMFS groundfish survey results were known, by the time Plan modifications could legally be in place (March, 1978) catch might have already approached or even surpassed the entire allowable 1978 commercial catch. This could have happened since with advance warning of oncoming March restrictions, many fishermen would have been prompted to increase their effort in the first quarter to catch fish "while the getting was good".

An informative meeting

Mr. Schoning and Richard Frank (then NOAA Administrator) met with the Council on November 21, 1978. Asked why it took six weeks for them to respond to the Council's September emergency regulations, they replied that it was attributable to legal ramifications posed by catches in excess of OY's.

Since it was "illegal" to take more than OY, but it was evident that cod and haddock OY's had been surpassed and yellowtail catches were approaching OY, a definite option was to shut down the fisheries for these species entirely. To avoid this option, it was necessary to increase the optimum yields. It was felt that changes for one species could not be legally defended without including the others.

Regardless of this logic, it was pointed out to Director Schoning that since problems were immediately evident to NMFS and the Secretary of Commerce, the Council's recommendations should have been returned forthwith to the Council for further deliberation. Mr. Schoning was under the impression that the Council was kept informed at least through informal conversations, and he stated that if the Service did not reply, an apology was in order. To prevent a future reoccurrence of this type of problem, he stated that a better communication system would be created.

Regarding processing of violations, Director Schoning also regarded the amount of time needed for administration and prosecution of violations as unsatisfactory. The main reasons for delays were: the amount of time needed to supply supporting documents and affidavits to insure legal and technical solidarity of each case; manpower shortages; setting of national standards for fees and penalties; recourse on the part of accused (appeals, hearings, etc.); and a lack of means to properly monitor the status of each violation.

Back to the drawing board - in a hurry

Just prior to the visit by Messrs. Schoning and Frank, the Groundfish Committee met on November 16, 1977 to develop "interim" recommendations on 1978 quotas and other measures. As it was discovered, these recommendations had to be decided upon and submitted to the Secretary of Commerce the next day in order to meet a timetable for emergency implementation on January 1, 1978. Members of the Committee had arrived at the meeting in expectation that discussions were to center on mesh selectivity experiments requested by the Council to better define appropriateness of Plan mesh size regulations. Some members were amazed and chagrined that, again, they had to quickly formulate very specific regulations.

The Committee (without advisors) developed strategies for 1978 and the next day sent them to the Secretary to advise her of the Council's future intentions. These strategies did not have Council approval since the next meetings were on December 7 and 8, and there wasn't time to wait. The Committee recommended extension of some parts of the Plan into 1978 until they could be revised based on results of mesh selectivity trials (mesh size and minimum fish sizes) and the fall groundfish survey (quotas). It was recommended that when revisions were completed at the beginning of 1978, they should be implemented on an emergency basis. It was asked that the new changes in the Plan be exempted from the National Environment and Policy Act (NEPA) review process to speed their implementation.

Specifically, the Committee proposed temporary extension into 1978 of the revised optimum yields set by emergency regulations of November 3, 1977: haddock - 10,500 MT (by-catch); 5Y cod - 12,000 MT; 5Z/6 cod 21,650 MT; yellowtail east - (10,000 MT) and west - (6,000 MT by-catch). These were to be revised based on 1977 catch figures and survey results. Also, the Committee proposed quarterly quotas and set first quarter allocations (approximate quarterly breakdowns of annual OY's).

More significantly, landing restrictions were changed by the Committee from a poundage per trip to a *per person* on board per trip for all three species. Preliminary values were:

cod	4,000 lbs. per trip per person, plus 4,000 lbs., with a maximum of 40,000 lbs. per trip
haddock	1,000 lbs. per trip per person, plus 1,000 lbs., or 10% by weight on board of all species whichever was greater
yellowtail	
west	1,500 lbs. per man per trip, plus 1,500 lbs., with a maximum of 25,000 lbs. per trip.
east	25,000 lbs. maximum per trip
	Maximum of 40,000 lbs. of cod, 10,000 lbs. of haddock or 10% of total weight of all fish on board whichever greater, or more than 25,000 lbs. of yellowtail flounder in any trip.

These recommendations were made without any staff analyses to indicate potential total catch using a per man per trip strategy and they took approximately *three* hours to make - not because they were easy decisions but because three hours was the only time available for a decision on that day.

'Tis the season

December's Council meetings were primarily devoted to discussion of the Committee's groundfish recommendations, and like September meetings, they were chaotic. As stated, these recommendations had to be sent to Secretary Krebs; otherwise, the 1977 Groundfish Plan in total would have been extended into 1978 meaning that no trip limitations would be in effect for the beginning of the year (except for haddock and yellowtail W 69°).

The proposed recommendations for the first quarter cod quota and all landing restrictions were criticized by the Council Staff and NMFS. For example, the former stated, "The per man-trip allowance of 4,000 lbs. for cod does not appear to be in keeping with historic values, nor does it appear to restrain actual catch to allowable levels". Fishermen in the audience felt the 1,000 lbs. limit on haddock was unrealistically low. Some felt that 5,000 lbs. per man per trip of cod and haddock in any combination would be more satisfactory. Some Council members, notably Allen Peterson, then Director of the Massachusetts Division of Marine Fisheries, stressed that the Council had to "bite the bullet" - a phrase first broached by him and used many times thereafter - to prevent declines in stock abundance. Other Council members appeared to side more with the fishermen; i.e., the stocks weren't in trouble as the scientists had claimed, thus restrictions didn't have to be too harsh.

Council member disagreements on size and manner of landings restrictions were great. No one could provide a satisfactory option. This led to the situation described by Barlow (Maine Commercial Fisheries, January 1978),

> "At this point, the discussion had been going on for more than three hours without a break, fishermen were getting more and more upset, and the Council appeared more and more confused about which way to go. It was then voted to table the discussion on groundfish until the following day, and the audience was told that Council members would remain in the building during the evening to discuss matters further with any members of the audience who wished to remain. The meeting was then adjourned.
>
> Many fishermen went straight to the telephones to let their fellow fishermen know what was happening and to urge them to be present on the following day to insure that their interests were protected.

> "The Council meeting reconvened at 8:00 p.m. chaired by Vice Chairman Tom Norris. At that time to everyone's astonishment the motion to table the groundfish discussion until the following day was rescinded. Frank O'Hara, spokesman for the Groundfish Committee, made the motion that the quota for the three months of 1978 be set at one quarter of the 1977 annual quota; that when 70% of the quota was reached, the fishery would operate under the amended by-catch regulations; and that when the full quota was reached, the fishery would be closed. Discussion had just begun between the fishermen and Council members, when Council member Omar Allvord moved the question, thus ending all further discussion and forcing a vote on the motion. The motion passed, and the meeting was adjourned.
>
> To say that fishermen were upset and angry at the way the Council handled the evening session is the grossest of understatements. Fishermen predicted economic disaster and threatened to blockade harbors. They were somewhat mollified when Mr. Peterson pointed out that the quarterly quota would make more fish available than had been caught during the same period in 1977, but there was still the feeling that things were getting worse, not better, under the 200-mile legislation."

As a result of Frank O'Hara's accepted motion, the Committee's recommendation of per man per trip limitations was rejected and the cod fishery was to operate without limitations until 70% of the quarterly quota was taken. Then, the November 3, 1977 by-catch limitations would go into place. This was part of the Council's proposal for the beginning of 1978 (rejected by NMFS).

A fitting end

The end of 1977 was marked by a very controversial NMFS action - the so-called Christmas closure of December 20-31, 1977. A NMFS press release said, "It was not feasible to extend the November 3 emergency regulations (45 day duration) for the remainder of the year, since harvest projections indicate that quotas would be further exceeded". Therefore, the only alternative was to close the commercial fishery and prohibit the taking (later changed to landing) of cod, haddock, and yellowtail flounder in the FCZ.

This closure provoked Edward MacLeod, then Council Chairman, to write to Richard Frank to provide his opinion on the appropriateness of the action. He said:

> "The closure was in my opinion an ill-advised and destructive act. I am informed that it was undertaken solely for legal reasons which appear to me to be questionable and arbitrary, and that it had little if any scientific justification. It is extremely improbable that this closure can have any significant benefit for the conservation of the resources and it is certain that it will have extremely adverse effects on the Council's efforts to establish credibility with and to obtain the cooperation of the fishing industry in the conservation and management of these resources. The closure can only be harmful to the establishment of good relations between the industry, the Council, and NMFS".

Widespread opinion was that since most boats tied up during Christmas week anyways, why bother to close the fishery. NMFS felt that if no boats were fishing, why get upset over a closure.

Summation-1977

The first full year of Council operation and groundfish management was clearly a learning process and many problems arose along the way. The Council's most contentious and unsolvable problem was the need to conserve and rebuild the cod, haddock, and yellowtail flounder resources without creating economic hardships for the industry. The wisdom of Solomon seemed to be a prerequisite to sieve out fact from fiction amongst the din and cry of fishermen on the one hand and advice of scientists on the other.

This scientists vs fishermen difference in opinion, seeming impossible deadlines to meet, an uncertainty of the exact administrative procedures necessary to insure timely implementation of Plans and their changes, apparent Council-NMFS/NOAA misunderstandings of each other's intents and motivations, vagueness of the OY concept, and inexperience of many Council members as fishery managers all appeared to contribute towards a general decline in Council morale and a poor decision-making process. It caused a lack of confidence by the industry that the Council could ever extract itself from its problems or that it would ever be able to see the light at the end of the tunnel (another commonly used 1977/1978 expression).

A new year

On January 1, 1978, the 1977 Groundfish Plan was implemented on an emergency basis by the Secretary until the Council's final 1978 regulations were completed and finally implemented. The Council's preliminary first quarter quotas for cod (based on November 16 Committee recommendations to the Secretary) and trip limitations established on November 3 were implemented. A final first quarter quota and amounts for the remaining three quarters and other modifications to the Plan were to be determined at January Council meetings and taken to a series of public hearings from January 30 to February 8. April 1 was the tentative and hoped for date of implementation for final 1978 regulations.

At the January 18 and 19, 1978 Council meetings the Council recommended 1978 quotas (tentative) based on Groundfish Committee and Council Staff's evaluation of assessment information and total 1977 landings. These quotas were

cod	5Z/6	22,000
	5Y	7,000
haddock	5	6,000 (by-catch)
yellowtail	east 69°	4,400
	west 69°	3,700 (by-catch)

These recommendations to be brought to public hearing resulted from a 6:30 p.m. to 12:30 a.m. Committee meeting the day before the January 18 Council meeting.

These quotas had to be very conservative especially since the U.S. commercial landings for haddock, Gulf of Maine cod, Georges Bank/Southern New England cod, and yellowtail west of 69°, exceeded 1977 quotas by 89%, 110%, 28%, and 65%, respectively; yellowtail landings east of 69° did not exceed the quota. These high catches combined with predicted poor recruitment to the fisheries led to either reduced or slightly increased 1978 recommended quotas. In particular, the situation for yellowtail east of 69° longitude drastically deteriorated. A 56% quota decrease was proposed. Even though the 1977 quota was not exceeded, a long succession of poor year-classes was expected to prevent any resurgence of the yellowtail fishery east of 69°. The slight increases in quotas for cod in 5Y (Gulf of Maine) and 5Z/SA6 (Georges Bank-Southern New England) were primarily attributable to the strong 1975 year-class on which the fishery would be dependent until at least 1980.

Regarding these quotas, the Council voted to ask the State Department to request Canadian Officials to accept a reduction in their 1978 allocation for cod and haddock without prejudice to the U.S. allocation in the Canadian zone.

Schemes to prevent closures?

Along with proposed 1978 quotas (and cod OY quarterly breakdown), the Council decided to go to public hearings with two schemes "intended to spread allowable harvest through the fishing seasons in order to prevent a fisheries closure and to provide all vessels with reasonable access to and share of the harvest". The first scheme, originated by the Massachusetts Inshore Draggermen's Association (MIDA) and the Cape Cod Commercial Fishermen Coalition (CCCFC), called for three vessel classes, 0-60 GRT, greater than 60 GRT, and fixed gear (hooks and gill nets), with yearly cod allocations for each class as a percentage of the quota proportional to average catch in 1970, 1972, 1974, and 1976. For example, if 0-60 GRT vessels in those years caught an average of 20% of total cod landings, then 20% of the 1978 quota would be reserved for those smaller vessels thereby avoiding "unfair competition" and a scramble for an existing quota by inshore and offshore boats. MIDA/CCCFC considered most small, daytime vessels as between 0-60 GRT; greater than 60 GRT vessels were thought to be primarily offshore, trip vessels. Other strategies were suggested such as by-catch restrictions for a vessel class (excluding hook fishermen) when 60% of that vessel class' allocation was taken. The by-catch was to be determined by a formula which MIDA/CCCFC hoped would make by-catch restrictions "commensurate with the remaining time in the quarter...." They also proposed an April 1 to March 31 management year to provide for enough time for the Council to receive end of the year stock assessments to be used in setting new OY's.

The other scheme (proposed for 1978 only) was to allocate to each vessel a predetermined catch based on its historic catch record (from NMFS) in the cod fishery. For example, if a particular vessel landed an average of 150 MT of cod in past years and that total represented an average of 1% of total cod landings during the same period, then in 1978 that vessel would be entitled to take 1% of the 1978 quota at any time, under any circumstances. There would be no by-catches or closures. New vessels or vessels without catch records would receive an allocation based on the historic average catch for vessels of that tonnage. Without going into detail there were many pros and cons for each management strategy.

Another scheme developed by Jacob Dykstra, a Council member and President of the Point Judith Fishermen's Co-operative Association and discussed by the Groundfish Committee, but not brought to public hearings, involved a system of positive and negative incentives to encourage fishing on less utilized species and discourage fishing on overutilized species. As an example of how this system would have worked, briefly, if the Council wished to shift effort from haddock and cod onto whiting, it might have arranged that a vessel would have owed the Council (or designated agency) perhaps 50% of the market price received for its catch of cod and haddock but would have received perhaps an additional 15% of the market price for whiting from the Council. Percentages could have been changed to vary the degree of incentive and disincentive. Other details are omitted here.

Unexpected weather and disarray

Due to a snowstorm, the blizzard of "78", and the snow emergency (no travel) which took place from February 6-10, scheduled Groundfish Committee and regular Council meetings were postponed to February 14 and 15, 1978. This lead to an awkward situation since no recommendations (using comments heard at public hearings) from the Committee for the 1978 Groundfish Plan were possible. Consequently, Council meetings were primarily devoted to Committee discussions and decisions.

Before the Committee began its deliberations, a letter from David Wallace, then Acting Assistant Administrator of Fisheries of NOAA, was read, and it caused great concern. Mr. Wallace stated that the Council had to beware of radical departures from the Plan already in place for the first quarter of 1978. Significant changes would initiate a review process which would delay Plan implementation perhaps to July 1, 1978. This was a highly undesirable situation because the existing regulations potentially could have led to a fishery closure for all tonnage vessels sometime in the second quarter of 1978. There were no vessel class quota allocations, but only vessel class by-catch restrictions established on November 3, 1977.

This letter and the forced delay of the Committee meeting contributed to two days of disorganization and indecision. In fact, these meetings precipitated much adverse criticism from the public and Council members themselves. The final result was a recommendation to the Council to continue the Groundfish Plan in effect except for new optimum yield values (see below) until the Council finalized something better based on the general principles of the MIDA/CCCFC suggested Plan, specifically, quarterly quotas by vessel class based on historic performance of each class. The Council accepted the recommendation with the understanding that the Committee was to meet before the next Council meetings (March 1 and 2) to finalize a plan for the remainder of 1978.

Cod	5Z/6	22,000 MT	(plus Canadian & recreational catch)
	5Y	8,500 MT	(6,000 commercial, 2,500 charter and headboats)
Haddock	5	8,000 MT	(by-catch)
Yellowtail	East	4,400 MT	(by-catch)
	West	3,700 MT	(by-catch)

The recommended OY's were based on logic described in another excerpt of a Barlow account (Maine Commercial Fisheries, March 1978). This excerpt aptly documented a situation (almost laughable) which caused the Council to make quick decisions.

> "The recommended increase in the haddock by-catch was voted on the motion of Jacob Dykstra, based on the following considerations. First, that the input from fishermen relative to the availability of haddock had been consistent throughout the entire geographic area and consequently there was some responsibility for the Committee to respond to that input if even in some small way. Secondly, Dykstra believed that fishing mortality would not be any greater with an optimum yield of 8,000 MT than with one of 6,000 MT because of the ever present problem of discards. And thirdly, he believed the Committee had some responsibility to social and economic disruptions that groundfish availability was forcing on the New England fishing industry.
>
> The decision to recommend that the OY for cod on Georges Bank include 22,000 MT for commercial vessels plus Canadian and recreational catch was based on the fact that the Committee did not know how much cod would be requested by the Canadians nor what was reasonable to expect the recreational fishermen to take. In either case it was expected that the two groups involved would not account for substantial removals nor put the stock in danger.

. . . .

> "The motion to retain the original OY figures for yellowtail was made by Frank Grice and approved by a 4-3 vote. The minority opinion was that the quotas should have been larger in order to retain the anticipated benefits to the cod fishery which, it was feared would be negated by the number of yellowtail vessels being forced into the cod fishery by the very small yellowtail quotas.
>
> . . . .
>
> When the deliberations of the Groundfish Committee were completed, the recommendations were typed and distributed to Council members and the audience. The full Council then convened and began their discussion of the Committee's recommendations. They were only partway through their discussion when it was announced that they had to vacate the room in which the meeting was being held within a half hour. At that point the Council had three choices: 1) to continue the meeting at a different location; 2) to adjourn with no action; 3) to make a quick decision within the remaining time.
>
> Apparently the logistics of the first choice were overwhelming as that particular suggestion never got off the ground.
>
> To adjourn without taking action would have meant that the Council had no recommendations to forward to the Secretary of Commerce for the Groundfish Plan to be in place April 1 when the current emergency regulations expire. If the Council had no Plan in place, then the burden of regulating the groundfish fishery would fall on the Secretary of Commerce until such time as the Council had its own Plan in place.
>
> Some Council members felt that they had been forced to take hasty action too many times in the past, only to have problems arise later. Those who felt this way also felt it would be better to have the Secretary regulate the fishery for two weeks or until the final Council Plan was approved than to make a decision they didn't have adequate time to consider.
>
> . . . .

> "However, those Council members who felt they would be shirking their responsibilities if they didn't forward recommendations to the Secretary immediately were in the majority. On the motion of William Gordon, the full Council voted to recommend those amendments to the 1977 Plan concerning optimum yields, quarterly allocations, and by-catch regulations."

Another Closure?

Prior to March 1 and 2, 1978 Council meetings, it was discovered that the first quarter by-catch quota for haddock was caught, and the Secretary of Commerce was intending to close the fishery on March 1. This precipitated urgent phone calls to Washington to deter this action. Although the Council was on record as having stated, "When 100% of the quota for cod, haddock, or yellowtail flounder is taken, retension or landing of these species will be prohibited for the remainder of the quarter", it had never been its desire to do so, (or at least it didn't expect the situation to arise). This situation created a tense atmosphere between the Secretary of Commerce and the Council.

At the March 1 and 2 meetings, the Council voted to request the Secretary of Commerce to reduce haddock trip limitations by 50% rather than to close the fishery entirely. The Council also sent its Executive Committee to Washington on March 6 in hopes of preventing a closure. In the event of a failure to deter a closure, the Council even considered retaining an attorney to initiate an adjunctive action. A recess was declared until March 9 at which time the Council was to reconvene to discuss the Secretary's decision plus further recommendations from the Groundfish Oversight Committee which was to meet on March 8.

On March 9 the Council learned results of the Washington meeting. The decision to close the fishery on March 1 had been delayed by NMFS until after the Council had time to consider the dilemma and suggest an alternative solution for the remainder of March.

Divided attention

March 8 and 20, 1978 Committee meetings marked a period of divided attention between two important issues. First, the Committee had to recommend a way to keep the haddock fishery open for the rest of March. Secondly, it had to finalize the 1978 Plan. To meet the Council April 1 deadline for Plan implementation, it had to have its recommendations published in the Federal Register by March 28. The last opportunity to meet this deadline was March 22 and 23, 1978 Council meetings.

Based in part on the Committee's decision, the Council proposed a further increase in the haddock OY from 8,000 MT to 20,000 MT for 1978. According to Council Staff, the fishery could sustain a removal of 20,000 MT for two or three years before the stock would reach the depressed state seen in the early 1970's. The very strong 1975 year-class (responsible for 75% of the 1977 landings) was to provide the major portion of this 20,000 MT OY. In the Council's view, a no discard provision, intermingling of cod and haddock on the same fishing grounds, and pursuit of an approximate 20,000 MT cod OY would likely lead to a catch of 20,000 MT of haddock, anyways. Also, the Council was gambling that the 1976 and 1977 year-classes of haddock would be stronger than originally assessed.

The Council also decided that there should be a 5 1/8 inch cod-end and trip limitations for cod and haddock with those limits to be adjusted downwards to reduce the possibility of another closure. Vessel class allocations for cod and haddock were to be broken down quarterly and based on historic performance. This latter strategy was adopted from the MIDA/CCCFC proposal to reduce competition between large and small vessels. The strategy of placing a quota on each boat was abandoned as a result of public comments received at the hearings. Importantly the trip limitations (now weekly) were to be effective at the beginning of each quarter. There would no longer be an open fishery at the beginning of each quarter which would convert to one of by-catch after a certain percentage of the quota was taken. This change was a radical departure from the MIDA/CCCFC Plan.

Unfortunately, the April 1 deadline could not be met to set the new 1978 Plan. However, "interim emergency regulations" were implemented by the Secretary to prevent a vacuum. These regulations changed the quotas (below) in keeping with February 14 and 15 Council decisions. All quotas were divided into quarterly allocations for each species.

Cod	5Y	5,000 to 6,000 MT	(commercial fishery)
		2,500 MT	(recreational fishery)
	5Z/6	20,000 to 22,000 MT	(commercial fishery) (no limitation on recreational fishery)
Haddock	5/6	6,200 to 8,000 MT	
Yellowtail	East	10,000 to 4,400 MT	
	West	4,000 to 3,700 MT	

The yellowtail quotas were to be by-catch, and a trip limit of 5,510 lbs. or 10% of total catch whichever greater was implemented.

The regulations contained a provision to allow the Regional Director to adjust the trip limitations to prevent closures. The old trip limits of 2,000, 2,500, and 3,000 lbs. per day and 16,000 lbs. per week (implemented November 3, 1977) after the directed fishery was closed for cod and haddock were still in place. March Council recommendations to start weekly limits at the beginning of the quarter were not in effect.

Another Closure

On April 13, 1978 cod fisheries were closed on an emergency basis by the Assistant Administrator for Fisheries since the open fishing of the first quarter (and the previous year) lead to very high landings in excess of allowable levels. Landing limitations reverted to the 2,000, 2,500, and 3,000 lbs. per day and 16,000 lbs. per week.

At the next April 19 and 20, 1978 Council meetings, status of the groundfish recommendations was discussed. The Regional Director stated that trip limitations for cod and haddock which were recommended by the Council at its March 22 meeting and sent to the Secretary of Commerce on March 31 were finally accepted. They were to go into effect on April 30 and would allow the three defined vessel classes by size to catch 7,000, 14,000, and 20,000 lbs. each of cod and haddock per week; fixed gear vessels would be allowed 16,000 pounds per week for each species. This represented a change from 2,000, 2,500 and 3,000 lbs. each of cod and haddock per day for each of the three vessel classes and 16,000 lbs./week for fixed gear.

Embarrassment and frustration

To the Council's chagrin, it discovered that catches of cod and haddock, even with the "restrictive" trip limitations, were progressing at a rate which would outstrip the quarterly quotas before the end of the second quarter (June 30). This disheartening news lead to another set of recommendations to further reduce those trip limitations that were about to be put into place. The necessity of this change plus the time delay to get the March 22 recommendations into affect exemplified typical problems and embarrassment which the Council had to face. Soon after the March 22 recommendations were to be implemented as regulations on April 30, the Council's new (April 19) recommendations for trip limit reductions were to follow. There was no wonder that both fishermen as well as Council members became frustrated and angry. The necessity of Washington NMFS to mull over all Council recommendations to "insure legality", and "to keep within the intent of the Fishery Management Act" before accepting and implementing them, prohibited real-time management actions and did not serve to reduce the communication, as well as credibility gaps, between the Council and the Washington NOAA/NMFS hierarchy.

The Council was also informed of the status of other March 22 recommendations which were not promulgated by the Secretary. Apparently the 20,000 MT OY for haddock, the 2,000 MT haddock TAC for charter and headboats, the no discard provision, the gill net mesh size, and vessel class allocations were regarded by the Department of Commerce as significant departures from the Plan already in place. The Department felt these changes did not receive adequate public review. Therefore, the amendments invoked the need for a Supplemental Environmental Impact Statement (SEIS) and review at public hearings before implementation was possible.

Many disagreed with the Department's ruling with regard to the "critically important" vessel class allocations. As early as January 24, 1978 David Wallace was informed that the Council would receive comments at public hearings held from January 30 to February 6, "on several proposed systems designed to spread the catch to avoid premature fishery closures and to encourage equitable sharing of the total allowable catch in 1978 among groundfish vessels." The vessel class allocation scheme was one of the two primary systems to be discussed, and it was. In fact at least 50% of the time spent at public hearings was devoted to allocation schemes. Note: After reviewing the record, it seems that a communication problem existed. Even though, as stated previously, Acting Assistant Administrator Wallace was apprised that schemes would be discussed at public hearings, the February 17 Council letter to Secretary Krebs informing her of Council recommendations, was remiss to clarify or even reiterate the public's response to the vessel class allocation scheme.

The Council, in conjunction with the NMFS Regional Office, began its preparation of the "needed" SEIS so that the vessel class allocation scheme could be implemented at least by the beginning of July. Public hearings were to be held around mid-May with implementation no earlier than mid-June, 1978.

On April 30, 1978 the Council's March 22 recommendations were implemented. To reiterate, this lead to a redefinition of vessel class categories and a change in cod and haddock landing restrictions: 7,000, 14,000, and 20,000 and 16,000 per week (Sunday to Saturday). Note: An important loophole for fishermen was inadvertently built into this regulation. "If a vessel is at sea more than one weekly period, cod and haddock on board may at the option of the vessel operator, be considered landed in the weekly period in which they were actually caught if the vessel operator maintains a log book recording the amounts of cod and haddock caught each day..." This provision enabled fishermen to get two weeks of fish in a one week trip. For example, if a fisherman left port on a Friday and came back the next Friday, he could claim two weeks of fish by saying that he caught one week's worth of fish on that first Friday and Saturday (fishing week - Sunday through Saturday).

Deductions and reductions

In keeping with March 31 regulations which permitted the Regional Director to adjust quarterly quotas, specifically to deduct previous quarter overages from subsequent quarterly quotas, on May 3 haddock and cod quarterly quotas (April - June, July - September, and October - December) were reduced by deducting first quarter overages equally from the remaining three quarterly quotas. This reduction occurred "to insure" that 1978 catch quotas would not be exceeded.

Four days later on May 7 the recently implemented increased cod and haddock weekly trip limits of 7,000, 14,000, 20,000, and 16,000 pounds per week were reduced in keeping with the Council recommendation made at its April meetings. These new limits were:

cod	0-60 GRT	4,900	lbs. per week
	61-125	9,800	
	greater than 125	14,000	
	fixed gear	8,000	(5Y), 13,000 (5Z/6)
haddock		3,500	
		7,000	
		10,000	
		8,000	

Additionally, yellowtail limits were reduced to 2,250 pounds per trip west of 69°. Trip limits east of 69° remained the same at 5,510 pounds per trip.

A worsening situation

William Gordon at May 17 and 18, 1978 Council meetings presented alarming landings data. Landings were still "excessive" and to bring catches back in line with quarterly quotas to minimize overages, extremely restrictive catch rates were needed; i.e., in some instances 500 pounds per week or trip! In fact Mr. Gordon projected that similar extremely restrictive limitations would be needed for the entire year to prevent substantial overages and fishery closures.

The Council did not approve of Mr. Gordon's suggestion. It wished to continue with trip limits already in place, and it emphasized the need for the 5 1/8 inch mesh and no discard regulation submitted to the Secretary in March. Opinions not to reduce the limits further were reflected by such comments (Barlow, Maine Commercial Fisheries, June 1978) as:

> "Peterson responded angrily to the idea of further reductions. 'Something is off somewhere if industry is catching so many

> fish so easily and the fishery isn't showing signs of problems or depression.' Dykstra agreed with Peterson. 'I think the price we're asking people to pay is too great for the honest men while the pirates reap the benefits."
>
> Dan Arnold, Executive Director of the Massachusetts Inshore Draggermen's Association, said, "We can't operate at these levels. The dealers are saying, 'Catch the fish. We'll take care of it'. This reduction will turn us all into smugglers. This will further skew the data. Any use of landings data will be totally worthless." "I don't know too many guys who can afford to fish on these limits. We just can't get away from cod," was the comment offered by Jay Lanzillo, Executive Director of the Cape Cod Commercial Fishermen Coalition."

Mr. Terry Leitzell, new Assistant Administrator for Fisheries, was in attendance and the Groundfish Committee requested a meeting with him to seek answers to problems with groundfish management. Also, at these meetings it was noted that the vessel class quotas recommended by the Council had been approved by Mr. Leitzell and that after a 45 day public comment period, final regulations would be in place.

The harbingers

Council and NMFS Staff had correctly predicted in early April 1978 consequences of existing and proposed catch limitations per trip or week for cod and haddock. In an April 6 memorandum to the Council's Executive Director they stated, "Under current regulations formal total closure prior to the end of the quarter appears to be necessary for cod in all areas in both the second and third quarters unless the currently enforced catch restrictions per vessel-day are substantially reduced. Under the proposed landing restrictions, it is apparent that drastic reductions in weekly catch allowances are required to allow fishing to continue throughout the two quarters". This conclusion was reached by examining weekly cod catches per vessel in the second and third quarters of 1977 and assuming that similar catch rates would occur in 1978 during the same time period.

The Regional Director's May 17 recommendation to reduce cod limitations to exceedingly low levels, therefore, was not surprising. His recommendation was also made with knowledge that the low limitations would probably represent an economic closure; i.e., trips would not be profitable. However, under the current plan there was no other alternative; i.e., economic or actual closures.

NMFS recommendations

On June 2, the Groundfish Committee met with Terry Leitzell, in Washington. Mr. Leitzell was very open to all suggestions to help alleviate the groundfish dilemma. He was sincere in his concern for the Council's problems and impressed with the degree and nature of the dilemma. No solutions arose from the meeting, but the communication was beneficial for all concerned. One result was an agreement that future Council amendments would be hand-carried by Council representatives to Mr. Leitzell so that possible courses of action could be fully discussed and no misinterpretations of Council intent would occur.

Both at the Leitzell and June 7 and 8, 1978 Council meetings, groundfish catch figures projected to May 31 were presented. These figures pointed out that with the existing Gulf of Maine cod OY (6,000 MT), with 58% of the year remaining, 19% of the annual OY was left (all vessel classes combined); for the Georges Bank/southern New England area, 48% of the OY remained; for haddock in the Gulf of Maine and Georges Bank/southern New England combined with the soon to be 20,000 MT OY (14,900 MT U.S. commercial allocation), 56% remained. The Gulf of Maine situation for the cod fishery, particularly for vessels 61-125 GRT which had taken 110% of their annual OY allocation, was desperate. Catch rates for haddock and cod (Georges Bank/southern New England) were within desirable limits.

In response to the Gulf of Maine cod predicament, to prevent a closure, Frank Grice, Chief of NMFS Division of Fisheries Management, presented NMFS recommendations to the Council. The recommendations were that since no groundfish fishery in the Gulf of Maine could be assumed without some cod catch, the Council should consider arbitrarily assigned, very reduced, weekly trip limitations; i.e., 1,000 lbs., 2,000 lbs., 3,000 lbs., and 2,000 lbs. for the four vessel classes, respectively. NMFS projected that these catch rates would result in a 1978 catch of approximately 12,870 MT in the Gulf of Maine. While this total represented a substantial overage (214%), the outlook with existing trip limitations was even worse. (Note: 1978 5Y cod catch was approximately 10,231 MT).

The Council could not argue about the status of the fisheries to May 31; however, it did disagree with the NMFS recommended harvest strategy. One desire of the Council was to reduce needless discards which made up an important part of total stock removals. Cod catches taken by fishermen in pursuit of haddock, which were being landed weekly as 3,500 lbs., 7,000 lbs., 10,000 lbs., and 8,000 lbs. for each vessel class would assuredly exceed the restrictive trip limitations proposed by NMFS. In adherence to the regulations, fishermen would be forced to discard their overages. When the "no discard" provision was finally implemented, fishermen would have no option but to violate regulations one way or another. Also, the economic and social dislocations produced by the NMFS limitations would be severe. In light of these potential outcomes, the Council soundly rejected the NMFS proposals.

Restart the clock

As an alternative to the NMFS recommendation, Allen Peterson reiterated his position (restart the clock) which was first mentioned at the May 17 and 18, 1978 Council meetings, relayed to Terry Leitzell by letter, and subsequently pursued with him at the June 2 meeting. Pertinent points from his letter are excerpted here.

> "I would like to have the opportunity to see if the Plan, with proper trip limitations, can be effective. I fear that lack of control of the fisheries (January - February; April 1-12) plus the piecemeal implementation of the Plan will prevent a fair evaluation of its workability. I feel that to arrive at a proper assessment we must start at 'ground zero'; that is, when the Council Plan is totally in effect, begin the quarterly OY's anew. While this will probably lead to overfishing in calendar year 1978, this approach would not represent a radical, unprecedented action. Similar logic has been adopted by the Council in its draft Herring Management Plan which is now undergoing public review. Spawning stock rebuilding in calendar year 1978 is being postponed due to the unregulated fishery for adult herring from January thru June, 1978. Over-fishing is being allowed in 1978 to prevent economic hardship for a segment of the herring industry; i.e., purse seiners.

> "I am not so naive to believe that the threats of closures will not reappear once the Council's plan is implemented in total even with quarterly OY's beginning anew, but at least we will be able to fairly judge the plan on its merits. If we have to live with past transgressions, this will be impossible, and will only further social and economic confusion and possible chaos in this important industry. I believe the long term resolution of the problem is much more critical than the impact of short term overfishing. If we get a sound plan into effect, I believe the fishermen will be more willing to cooperate and insure its success. If we continue to operate in the current adversary roles, I am positive that any plan is doomed to failure. The fishermen know there is 'more than one way to skin a cat' (bureaucat) and unless we can convince them that we are working for and with them, they will set out to do so."

While his suggestion to restart the clock received some support from Council members, others found it undesirable. A need for more debate and discussion within the Groundfish Committee and with groundfish advisors, prevented any further action on his recommendation. The status of the Gulf of Maine cod fishery for the remainder of the year was thus uncertain.

The Council voted to draft a letter to Mr. Leitzell to express its recognition that catches were out of balance with the current plan and that it realized a dilemma existed, but, regardless, it was forced to reject trip limitations recommended by NMFS due to severe economic and social implications. The Council wished to allow fishing to continue until June 28 and 29, 1978 meetings when alternative actions would be considered. Jacob Dykstra added that should the Secretary of Commerce consider a particular action, Council representatives and a member of Mr. Leitzell's staff should meet with her to discuss the action.

Another complication - Canada

Early in June, 1978, Canada announced dissatisfaction with the progress of the U.S./Canadian discussions on fisheries management and closed all their fishing zones to fishing by U.S. commercial vessels. The U.S. responded by forbidding Canadian fishing in U.S. waters. This was to eventually subvert the vessel class quota scheme because with lack of access to Canadian waters, large vessels could no longer supplement their 5Y or 5Z/6 limitations by fishing in Canadian waters (or claiming to have fished there). Hence, quotas for large vessels based on historical share (catch) in 5Y and 5Z/6 were not sufficient to meet the larger vessel's needs.

Catch limits get smaller

On June 22 it was announced by NMFS that on July 2 trip limits for cod and haddock for each vessel class were to be reduced again to avoid complete closures. These limits were concocted by NMFS and were similar to those proposed by NMFS and voted down by the Council at its June 7 and 8 meetings. New limits were:

	cod 5Y	cod 5Z/6	haddock 5
0-60 GRT	2,000 lbs. per week	1,000	1,000
61-125	1,000	1,500	1,500
greater than 125	3,000	7,500	5,000
fixed gear	8,000	13,000	8,000

The Groundfish Committee met on June 23 and 26 to try to devise a strategy to avoid closures and to discuss the upcoming July 2 trip limits. Washington NMFS decision makers attended the first meeting and pointed out to the Council that they were only doing what the Council had requested; i.e., reducing trip limits to avoid closures. Committee members agreed that NMFS perception was correct, but believed NMFS should also have been aware, based on past meetings and correspondence, that economic closures were no better.

It was resolved that the Committee would recommend the "start the clock again" strategy involving changing the annual calendar year quotas to fishing year quotas which would begin anew with no penalties imposed for past overfishing of quotas. Washington NMFS personnel were noncommital on this strategy's acceptability but emphasized that it had to be justified. They also stated that the July 2 reductions and trip limits were to be implemented if the Council didn't provide an alternative. No alternatives were presented and the limits were implemented.

More changes

On July 23, 1978 the Council's March 22 and April 19 recommendations for OY and trip limit changes, respectively, were made - with some exceptions. The haddock OY was increased from 8,000 to 20,000 MT (14,900 MT U.S. commercial; 2,000 MT U.S. recreational; 3,100 MT Canadian). The 5Z/6 cod OY was increased from 22,000 to 26,000 MT and 5Y cod OY from 6,000 to 8,000 MT. The no discard provision was also implemented and size limits removed.

Trip limits remained the same as those put into effect by NMFS on July 2 except for cod and haddock in the 5Z/6 region. Limits were increased to those proposed by the Council at its April meetings. Additionally, yellowtail landing restrictions were unexpectedly changed from 2,250 pounds per trip west of 69° and 5,510 east of 69° to vessel class limits for both areas combined. Those limits were:

0 - 60 GRT	6,000 lbs. per week
61 -125	10,000
greater than 125	14,000

In keeping with another previous Council decision, the haddock OY was divided into separate 5Y (21%) and 5Z/6 (79%) components to prevent inequities in vessel class allocations; i.e., the historic percent catch within vessel classes varied widely between the two areas, and it had to be taken into account. The separate 2,000 MT recreational quota for haddock was maintained.

Another change was made pertaining to allowable cod, haddock, and yellowtail flounder catch with mesh less than 5 1/8". Vessels using mesh less than 5 1/8" could not land more than 1,000 pounds each of cod, haddock, and yellowtail or 10% per trip of each species by weight of all fish on board. No more than the allowable weekly catch (by vessel class) could be taken and at least 2,000 pounds of other species per trip had to be landed. This change was made because by the former trip limits, in some cases, more cod, haddock, and yellowtail could be legally landed if they were caught with small mesh than with larger sizes.

Objectives

As part of the justification for starting the clock, the Committee began to discuss possible objectives for the Groundfish Plan. The original plan had none except for stock rebuilding. This occupied the major portion of

July committee meetings and a special Council meeting was held to finalize objectives. These were:

> "The overall objective of the Plan, the management unit of which shall consist of cod, haddock, and yellowtail flounder as well as of other species in the mixed trawl fishery that the Council considers necessary to bring under regulation, shall be to generate over the period of the Plan the greatest possible joint economic and social net benefits from the harvesting and utilization of the groundfish resource, ensuring that by the end of the period the relevant groundfish stocks shall be in conditions which will produce enhanced and relatively stable yields from the groundfish fishery in future years.
>
> Sub-objectives were:
>
> a) Prevention of abrupt changes in the relative shares of domestic user groups in the resources;
>
> b) Freedom of decision-making and choice for individual participants in the fishery should be maintained to the greatest possible extent;
>
> c) Inducement of diversification in the groundfish fishery towards increased utilization of species other than cod, haddock, and yellowtail;
>
> d) Minimization of management regulations, subject to attainment of the overall objective;
>
> e) Minimization of enforcement costs, subject to attainment of the overall objective;
>
> f) Provision for accurate and consistent economic, social, and biological data required to monitor effectively and assess the performance of the fishery relative to the overall objective."

NMFS makes its feelings known

The aforementioned changes in the Groundfish Plan and establishment of objectives were preceded by a letter to the Council from James Walsh. This letter (see letter) clearly pointed out some of NMFS beliefs, attitudes, and constraints.

On July 28, 1978 after promising to set specific Plan objectives to deal with the discarding of fish at sea, the rapid increase in the size and effort of the New England fishing fleet, and the traditional and increasingly high degree of economic dependency of various fleet sectors on cod, haddock, and yellowtail flounder, the Council in a letter to the Secretary of Commerce sought to have her approve the change from the calendar year to a fishing year plan as early as possible, to implement all changes in the Plan requested by the Council at its March meetings and to apply March 7 trip limitations. The Council was seeking an opportunity to direct its full attention to a complete rewrite of the Management Plan rather than spending its time amending the existing, inadequate Plan ("the band aid approach"). It also sought to prevent further socio-economic disruption of the New England fisheries caused by the extremely restrictive trip limitations.

Terry Leitzell, on behalf of the Secretary, replied in July 25 correspondence to the Council's letter. He was non-commital whether he would recommend approval of the Council's request. His response primarily stressed the need for concise objectives with strategies to achieve those objectives and he stressed the need to address increased fishing effort. He pledged his staff's support to assist the Council "establish comprehensive and effective approaches to the management of the groundfish fishery".

A new strategy with old problems

On July 27, 1978 the vessel class quota scheme (implemented July), based in part on the MIDA/CCCFC proposal, suffered its first set-back. It was announced that as of August 5, vessels from 61-125 GRT and fixed gear in 5Y were to be prohibited from catching and landing cod. The annual quotas for each vessel class had already been caught.

To make matters worse, at least for some fishermen, shortly after the closure announcements, NMFS declared its proposal to make the groundfish fishery a "conditional fishery"; i.e., to make the fishery ineligible for some government financial assistance programs. This action was sparked by federal concern that effort in the cod, haddock and yellowtail fishery was expanding, and the existing fleet already had the capability to catch existing quotas.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE ADMINISTRATOR

June 28, 1978

NEW ENGLAND REGIONAL FISHERY
RECEIVED
JUN 30 1978
PEABODY, MASS.
MANAGEMENT COUNCIL

Mr. Edward J. MacLeod
Chairman, New England Fishery
Management Council
Peabody Office Building
One Newburg Street
Peabody, Massachusetts 01960

Dear Ed:

I am writing to explain recent actions of the National Marine Fisheries Service to implement the Atlantic Groundfish Fishery Management Plan. Unfortunately, our actions continue to be misunderstood and criticized by fishermen in New England. Moreover, agreement over the effective management of the fishery still eludes us, in part because of the changing condition of this dynamic fishery. There is nothing we would like more than an agreed to, long-term management plan, with clearly articulated objectives, prepared by the Council and implemented by this agency under the Fishery Conservation and Management Act.

As you know, the Act does not mandate that management plans be prepared immediately upon its effective date for a fishery involving domestic fishermen. Very early at the Council's request, because of your desire to have some regulations in place after the demise of the International Commission for Northwest Atlantic Fisheries (ICNAF), we prepared a "skeletal" fishery management plan for cod, haddock and yellowtail flounder. That plan was adopted by the Council early in 1977, and we proceeded to implement it. The plan contained, at the beginning, a legal limit to fishing--the optimum yield (OY)-- and provisions to protect spawning grounds, among other provisions. We have sought, over the last year, to implement that plan and its several amendments, consistent with the legal requirements of the Act.

Three factors have made it extremely difficult to stabilize this fishery, conserve its resources, and prevent economic harm to the fishermen since the plan was put into effect: (1) the substantial influx of new vessels and fishing capacity; (2) a lack of agreement about the objectives of the plan; and (3) continuing uncertainty because of repeated changes in regulations. Unfortunately, we seem to be in a constant state of crisis, unable to come to grips with the basic question of the best management objectives for the fishery.

Since under the law the optimum yield of any fishery is the legal upper limit of harvest for that fishery and not merely a "target," we have insisted that it be adhered to or changed according to the terms of the Act. Nonetheless, as long as the increase in OY does not signal a serious decline in a stock, we have generally acceded to the Council's desires to change optimum yields as fishing pressure has increased.

We only wish to point out that as the optimum yields for cod and haddock expand, the Council may be allowing itself fewer options for the management of these stocks so important to the New England fisheries. A continuing trend of heavy fishing may, within a year or so, even foreclose the option of allowing the cod and haddock stocks to rebuild to pre-foreign fishing levels. This is especially true with the haddock stock which has a single, unusually strong year class. Right now the choice is between heavy fishing on this strong year class and thereby reducing stock abundance, and preserving a sizeable spawning stock for future years. That choice must be made shortly or opportunities for rapid rebuilding will be foreclosed by mounting domestic fishing pressures. As we all know, the stocks have not fully recovered from nearly 15 years of heavy foreign overfishing.

We also agreed with the objective of preventing closures by reducing trip limitations as quarterly quota guideposts are approached. The Council requested this approach, as an interim measure, and we agreed to implement it.

To assist in getting at the major management issues, we have decided to implement, on an emergency basis, the Council's most recently suggested plan amendments and other actions. In particular, we have decided to:

(1) increase the OY for cod in the Gulf of Maine by 2,000 metric tons, from 8,500 to 10,500 metric tons;

(2) increase the OY for haddock by 12,000 metric tons, from 8,000 to 20,000 metric tons; and

(3) approve a requirement for mandatory retention of regulated species.

We are considering immediate action to implement the remaining Council plan amendments, including (1) requiring minimum gillnet mesh size of 5½ inches; (2) revising the procedures for closing fisheries; (3) establishing new incidental catch provisions; and (4) establishing an annual vessel class allocation system.

Previously, Terry Leitzell, the Assistant Administrator for Fisheries, took action effective July 2 to reduce trip limitations, as called for in the plan, to avoid a complete closure of the fishery. The action to raise the cod and haddock OY is coupled to this action and must be if we are to avoid a closure of the entire fishery for the remainder of 1978, as the plan requires unless amended or changed.

These actions, we believe, will give the Council additional time to establish your management objectives for this fishery. For example, does the Council wish optimum yield to reflect a goal of rapid rebuilding of cod and haddock stocks or does it wish to maximize harvest in the short term. Once your objectives are clearly stated, it will be much easier for us to implement the specific management measures (e.g., OY, trip limits, etc.) required to carry out the objectives.

In the meantime, we intend to implement your plan. Unless the rate of landings is reduced, however, optimum yield will be exceeded in the near future. Consequently, we are eager to have your guidance.

We wish to make absolutely clear that the New England Fishery Management Council is the primary body responsible for management of the New England fisheries. That is what we believe Congress intended in the Act; that is how we wish the Act implemented. We also recognize that we are still in the shake-down phase of a fairly complex new law that requires conservation restrictions many of our fishermen have never experienced, and an equally complex fishery. Without the grass roots support of the fishermen themselves, government regulations will not work. We honestly desire that support since the conservation of our fishery resources is very much in everyone's interest. It will require a cooperative effort if we are to realize the full potential of the fish stocks off New England.

As with any fishery in which there are too few fish and large numbers of fishermen with high expectations, effective management will require hard choices. For instance, it may be necessary to consider seriously a moratorium on new entry into certain heavily exploited fisheries. It will be necessary to allocate among small boats and large boats, commercial and recreational fishermen, and so on. We are committed to assist the Council in making those decisions and to foster the conservation of the resources, in compliance with the Act.

Sincerely yours,

James P. Walsh

James P. Walsh
Acting Administrator

At August 9 and 10, 1978 Council meetings it was announced that effective August 15, all commercial fishermen using groundfish gear (5 1/8 inch mesh cod end) would be prohibited from catching cod within the Fishery Conservation Zone of the Gulf of Maine. After that date, only vessels using small mesh nets (less than 5 1/8") could still legally land cod (up to 10% of the total catch on board taken incidentally while fishing for other species). Importantly, a vessel with a 5 1/8 cod end pursuing haddock in 5Y had to discard all cod taken "incidentally". The maximum mobile gear trip limitation for haddock was 5,000 pounds.

Opinions change

At June meetings the Council as a whole was not supportive of beginning OY's again at the start of a fishing year. However, by August meetings that feeling changed, for agreement was reached that the Council Plan sent to the Secretary of Commerce in March should at least be judged on its own merits. An entire yearly OY, not one partially dissipated by periods of unrestricted fishing, was an essential ingredient. This agreement was reflected by a vote to start "fresh" with time being available afterwards for the Groundfish Committee, Council Staff and advisors to create a new or revise the existing Plan to enable attainment of recently formulated management objectives.

It was pointed out by the Regional Director that the "start the groundfish OY's anew" concept, while probably needing two to four weeks of Secretarial review, would likely be acted upon favorably by the Secretary. The NMFS Regional office had recommended the Council's proposal.

A few more reductions before the new year

Yellowtail limitations were reduced on September 16. These limitations were 2,000 lbs. per week or trip whatever was longer to allow fishing to continue for the balance of the year.

A fresh start?

On October 1, 1978, the OY's began again. Regulations were implemented through a Secretarial Amendment to the Plan on an emergency basis. NMFS reasoning for approval of these regulations was that, "The Council has embarked on the formation of a comprehensive Fishery Management Plan to replace the Plan currently in effect. These interim amendments are designed to provide for a limited and more orderly fishery while this major revision is accomplished". Provisions of the Secretarial Amendment were:

Cod	5Y	8,500 MT	(6,000 MT commercial allocation)
	5Z/6	26,000 MT	(22,000 " " ")
Haddock	5Y	3,130 MT	total 14,900 MT commercial allocation
	5Z/6	11,770 MT	
Yellowtail	East	4,400 MT	
	West	3,700 MT	

Catch limits for each vessel class by species and area are listed in Figure 3 . With a closure the following vessel class trip limits were to be:

Cod and haddock	0-60 GRT	500 lbs.	or 4% per trip whichever is less
	61-125	1,000 lbs.	"
	greater than 125	2,000 lbs.	"
	fixed gear	500 lbs.	"
Yellowtail flounder		500 lbs.	or 4% whichever is less for all vessel classes east and west of 69°

An important part of this Amendment was that if a quarterly quota was exceeded the amount of the overage would be deducted from subsequent quarters.

At the first Council meetings (October 23 and 24) following the beginning of the fishing year, groundfish landings for the first quarter (October 1 to December 31) were provided by NMFS. As expected, some vessel classes faced lengthy closures for part of the first quarter for some species. Specifically, haddock 5Y and 5Z/6 0-60 GRT and haddock 5Z/6 greater than 125 GRT; cod 5Z/6 fixed gear. Trip limit reductions were needed.

Many Council members, upon hearing the need for reductions, maintained that lack of enforcement due to inadequate number of personnel to cover the many ports and landing sites ; loopholes in regulations; lack of states' waters regulations; and, clandestine fishing operations with accommodating shoreside facilities were primarily responsible for early closures and not trip limitations which supposedly were set too high.

Many believed that, while theoretically sound, the strategy of reducing catch limitations did not work in practice and only penalized those fishermen who attempted

Figure 3

			Oct 1 (1978)	Nov 17 (1978)	Dec 17 (1978)	Jan 1 (1979)	Feb 4 (1979)	March 13 (1979)	April 22 (1979)	July 22 (1979)	Oct 1 (1979)	Sept 7 (1980)	Oct 1 (1980)	April 10 (1981)	Oct 1 (1981)
0-60	Cod	Gulf of Maine	2,500							CLOSED	2,500	1,750	2,500	2,000	2,500
	Cod	Georges Bank/South	4,900							7,000		4,950	7,000	6,500	7,000
	Haddock	Gulf of Maine	3,500	CLOSED		3,500	CLOSED	2,500		5,000					
	Haddock	Georges Bank/South	3,500	CLOSED		3,500				7,000					
61-125	Cod	Gulf of Maine	5,000	2,500		5,000	CLOSED	2,500	CLOSED		5,000	3,500	5,000	4,000	5,000
	Cod	Georges Bank/South	9,800	4,900		9,800				14,000		9,800	14,000	13,000	14,000
	Haddock	Gulf of Maine	7,000	CLOSED		7,000	CLOSED	2,500	CLOSED		7,000				
	Haddock	Georges Bank/South	7,000	3,500	CLOSED	7,000	3,500	7,000		14,000					
greater 125	Cod	Gulf of Maine	7,000	CLOSED							7,000	4,900	7,000	5,500	7,000
	Cod	Georges Bank/South	14,000	7,000	CLOSED	14,000				20,000		14,000	20,000	15,000	20,000
	Haddock	Gulf of Maine	10,000	CLOSED							10,000				
	Haddock	Georges Bank/South	10,000	CLOSED		10,000	5,000	10,000		20,000					
fixed gear	Cod	Gulf of Maine	5,000		CLOSED	5,000	2,500	5,000		CLOSED	5,000	3,500	5,000	4,500	5,000
	Cod	Georges Bank/South	13,000							16,000		11,200	16,000	14,500	16,000
	Haddock	Gulf of Maine	8,000		CLOSED	8,000				16,000					
	Haddock	Georges Bank/South	8,000							16,000					

to abide by the law. Increasingly stringent regulations with consequent economic pressures were eroding the number of cooperative fishermen who were finally being forced to "outfox the fishcrats and their regulations". Cap'n Perc Sane letters in The National Fisherman (May and October 1978) expressed, although in a somewhat exaggerated manner, what seemed to be a popular sardonic opinion amongst fishermen (also see cartoon).

Some loopholes

While in Massachusetts the territorial waters haven was removed on August 31, 1978 when that state implemented its own regulations, other states had yet to take action. Besides state waters loopholes which allowed fishermen to claim FCZ catch as from territorial waters, many fishermen had other means of side-stepping federal regulations. One such means was for mobile gear vessels to carry on board gill nets and other types of fixed gear thereby "qualifying" for both fixed gear and mobile gear catch limitations. While the magnitude of that practice was not known, it might have contributed to the threat of an early cod closure for the true fixed gear fishermen who fished Georges Bank/southern New England. This loophole was removed on November 8, by not allowing the vessels to claim catch with more than one type of gear.

Another frequently used loophole was "piggybacking"; i.e., fishermen claiming that total fish on board was comprised of a summation of Gulf of Maine, Georges Bank/ southern New England, and territorial waters allowable catches when in fact all fish were caught in one of the regions. Again, the degree of illegal piggybacking was difficult to assess. However, legal piggybacking was responsible for a change in past fishing patterns; e.g., fishermen who normally fished on Georges Bank/southern New England were forced to exert effort on the Gulf of Maine cod stock which should have been fished minimally.

Tit for tat

At the October meetings it was also learned that the Canadian government had declared open fishing on Georges Bank to allow a free trip of haddock for each Canadian fishing vessel. Their action was prompted by implementation of the U.S. new fishing year with reinstated annual OY's and the Canadian retention of management by calendar year. Apparently, the Canadians felt that they had three months to allow their fishermen to "catch up"; i.e., to acquire compensation before 1978 was over for the eventual U.S. overrun of its original share of the 1978 calendar year OY. It appeared to be a "what's good for the goose is good for the gander" philosophy.

Saturday Cove,
Maine

Dear Editor,

Well, guess it was bound t'happen. The fishcrats have managed t'put half the cod fishermen outa business in two years. Nature didn't see fit t'do that in 300 years. These fishermen have faced 100-mile gales, whale-stove boats, ornery sharks n' natures' dry spells, but always pulled through f'another season. But they ain't come up against anything like this colossal pod of regulatin' fishcrats who don't know a stern bearin' from a brick of pig lard.

After a recent talk with God, the fishcrats said fishermen up our way can't catch any more codfish for the rest of the year. If God told the fishcrats how the fishermen were gonna buy bread n' butter, they didn't pass it on.

We ain't been too concerned here at the Cove 'cause the last codfish seen 'round here was 'bout a year after all the big cats started dumping their wastes inta' the bay. This cod limped inta' the Cove on one fin, threw up his tail n' said if this was a sign of the future, then fillet him out right there. Shorty Gage's grampa did n' had him f' suppa.

But the fishcrats are workin' their way down the fish charts. The cod, haddock, herrin', mac'ral, hen clams n' a few other unfortunates have bit the seaweed dust, gunned down by the fishcrats. They never had a fighting chance.

In the gunsights are everything else that crawls n' swims in America's waters. That includes slime eels, whore's eggs, sea slugs, seagull dung, shag nests, driftwood n'plastic bottles inside 200 miles, n'rainbows, if'n they are in territorial waters.

The fishcrats will divvy up inta' separate divisions. F'instance, if you wanted t'catch a couple slime eels, just for the hell of it, you'd dial the fishcrat 800 toll-free number n'ask for the slime eel division. After four or five more shuffles northern and southern, male or female, you'd come t'the slime eel (southern) male allocation chief officer. He'd check his chart n'see that, today, five slime eels can be harvested. If it was early morning, n'you're lucky, you'd get one.

Once caught, you'd log the slime eel in your fishcrat boat logbook, which you can get at any U.S. Post Office for five bucks. You'd better have a logbook or face getting blown outa' the water by the Coast Guard.

But we ain't got any slime eels in the Cove either. What we have got is lobsters n'the fishcrats have been working overtime on a lobster plan. Recollectin' the demise of cod fishermen, the lobsterman had better start loading up a few cases of scattershot. Or looking more than at pictures in seed catalogs.

The fishcrats are right around the corner from taking over the lobster business. Right now there are more laws on lobsters than on man. What the fishcrats have in mind is t'make all these local laws federal statutes n'then add 'bout as many of their own.

Oh, they will ease inta' lobstering. Like the carrot n' the rabbit. But once the lobsterman is in bed with the fishcrat, he's gonna be seduced. But good.

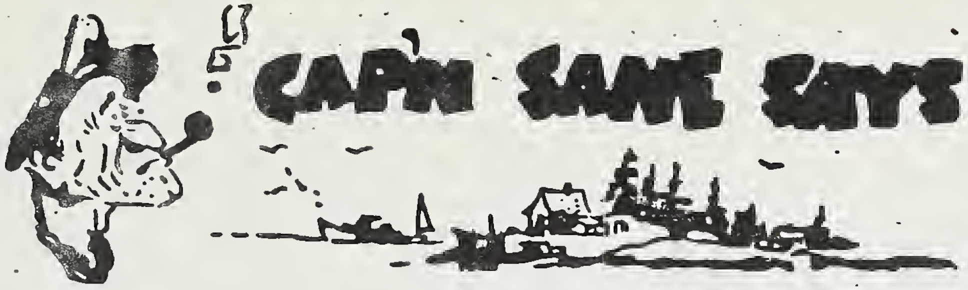
Down the road, the lobstermen will find such things as size changes, limited entry, area openings n'closings, boat restrictions, trap limits, trap material specifications, boat logbooks where every goddamn lobster must be identified, federal officer boardings, local n' overall quotas, bans on landing culls — n'a few things the fishcrats ain't thought up yet.

But the godawful truth will emerge when the only say a lobstermen will have about these attempts on his livelihood will be to drive a couple hundred miles to a Holiday Inn n' give lip service t' a council of fishcrats who made their decisions many moons ago.

N' if there are any doubters, they are all invited t' the Cove picnic in five years. Bring your own hot dogs.

Best regards,
Cap'n Perc Sane

Source: National Fisherman, October 1978



Saturday Cove,
Maine

Dear Editor:

Well, it was bound t'happen. With all this new hullabaloo 'bout fish zones, fish quotas, fish councils, fish this, fish that — all of a sudden fish has come outa cellar salt tubs n'inta the respectable side of life. So now what do we have but fishcrats. Good God, do we have fishcrats.

Years ago, the fish business was pretty simple. There was the fish, fishermen, the buyers and sellers of fish and people who ate fish. Everything seemed t'go along fairly well. There were just enough fishermen to catch just the amount of fish that fish eaters would eat. Everybody made their fair share of money.

Then along came the first fishcrat. He probably was a cowcrat before that but saw bigger n'better visions in screwing up a whole ocean of tranquility. He made a pitch to his brother bureaucrat f'some funds. There want no trouble in getting the dough 'cause everybody knows that bureaucrats control all the purse strings.

Well, the first fishcrat was so successful, he hired a bureau, the first fishcrat bureau. They went all over hell telling people things they didn't want t'know, how not t'do something right n'talkin' in a strange language nobody could understand, especially dumb fishermen.

It was pretty hard t'stand up t'this growin' legion of fishcrats. They were multiplying like no-seeums, talked in foreign grunts, groans n'graphs — n'wore neckties, black shoes n'brown socks. Obviously, fishermen gave these plumed birds a wide berth.

Unchecked, fishcrats spread like wild fire. Upon every ocean, sea, river stream, water trickle n'wet dew. There were so goddam many fishcrats that they got fightin' among themselves. Out of the international fishcrat war came chapters n'charters n'societies of fishcrats — each with a separate goal — but dedicated to screwing up the fishermen of the world.

The government fishcrats, or, as they don't like to be called, bureaucratic fishcrats, are the big shots 'cause they got all the money. They are dedicated t'giving money t'everybody but legitimate fishermen. If you can prove you are a fisherman, you don't get any dough. Simple enough.

The next people in line after the fishermen who don't get any money from the bureaucrats are the people who help the fishermen. These are private type, free thinkers who can't stand being any kind of crat. They have their own un-crat outfits. They ask the dough fishcrats f'money but in the blank space that requests the reason, the un-crats usually are honest 'bout it n'say they want t'help the fishermen. They, of course, are turned down flat.

The outfits that get most of the dough are cow colleges that have run out of cows. They just ignore the poor cows now n'call themselves fish colleges. They have a lot of ex-cow experts runnin' around as cod experts. After all, they only had t'change one letter. The government has silos of money for these turncoats because on their application for dough they answer "not really" if any of this cash is going t'help the fishermen.

Ex-cow, now fish, crats have been known to douse a sunrise in their haste t'not help the fishermen. There are such projects as seaweed slide shows, driftwood stool construction, n'super color movies complete with bouncing ball seachanty sing-a-longs.

There are chapters of cop fishcrats whose gold leaf creed states flatly that only one in every 256 fishermen is honest. There are fish council fishcrats who know the exact number of fish in the ocean because they talk to God only and everybody knows God talks to little fishes. Council fishcrats say fishermen only talk to God when their boats are sinking — so how do they get any inside information?

The latest secret super-fishcrat study revealed that it takes 1,567,990 fishcrats t'support one fisherman. Although on a par intellectually with the ratio, it's almost certain that the days of the fishermen are numbered.

Being forced into ever decreasing circles by gale force fishcrat winds, the fisherman will eventually disappear into his own good intentions.

Best regards,
Cap'n. Perc Sane

Source:

National Fisherman
May 1978

"Let's see now, according to this here quota list of banned species from those scientist fellers, the only kind left to catch this month are sea snakes, sting rays, and tiger sharks."

Maine Commercial Fisheries
April 1978

The Council sent a letter to the Secretaries of Commerce and State to (1) express the Council's grave concern over the unrestricted Canadian effort on Georges Bank; (2) ask the Secretary of State to determine how the Canadian government intended to monitor its fishermen's catches; and (3) have the Canadians supply landing reports to the U.S. Aside from conservation, the Council was concerned that Canadians would dump their immense catches (some as high as 500,000 pounds of haddock per trip) on the U.S. market thereby depressing prices available to U.S. fishermen.

Atlantic Demersal Finfish Plan

The Council and its Staff (especially the Staff) did not spend all their time trying to repair and modify the existing Groundfish Plan to address short-term concerns. In May of 1978 work had commenced on a major effort to put in place a new comprehensive Plan for 1979. This effort is described below in an excerpt from Marchesseault, Ruais and Wang (1980). This effort also was partially responsible for the Secretary of Commerce decision to accept the Council's new fishing year with reinstated OY's.

> "Between October 1978 and early spring, 1979 the staff made considerable progress on the plan. But events, including a decision by the Groundfish Oversight Committee to broaden the management unit and the evolution of a NOAA/NMFS Task Force on Multi-Species Management have necessitated a re-evaluation of the completion date. Along with the decision to broaden the management unit on May 4, 1979, the Groundfish Oversight Committee agreed to change the name of the plan to the Atlantic Demersal Finfish FMP. On June 27, 1979 the New England Council formally and unanimously adopted Part I of the Atlantic Demersal Finfish FMP, which includes a definition of the relevant management unit and appropriate management objectives for the species under regulation. As such, 'Part I: Statement of the Problem for the Atlantic Demersal Finfish Fishery FMP' provides a basis for including within the management unit the following species: cod, haddock, yellowtail flounder, fluke, all other

> flounders, silver hake (whiting), red and white hakes, pollock, redfish, butterfish, and scup. This combined resource complex forms the major source of incomes and benefits to the New England and Mid-Atlantic otter trawl and fixed gear fleets as well as to recreational user-groups. The objectives adopted by the Council for the management of these species are appended to this document.
>
> It is recognized that it is unlikely that this FMP will initially provide for regulations for all the species noted above. Individual FMP's in various stages of completion, are being prepared by either the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, or the National Marine Fisheries Service for eight of the eleven species noted. However, the existence of extensive biological and economic species interdependencies in the New England and Mid-Atlantic demersal finfish fisheries creates the need for the simultaneous determination of the management regulations for these species. It is recognized that the most effective means of achieving such simultaneity is through the preparation of a multiple species management plan. Therefore, it is intended that management measures and regulations will ultimately be developed for those species for which the New England Council has legal authority, and for those species over which the Mid-Atlantic Council has authority, if the Mid-Atlantic Council concurs in the need for appropriate regulations. These management measures and regulations will also be sensitive to the impact on fisheries for species other than those included in the ADF FMP."

Creation of a Task Force

In early November, the Staff arrived at the point where the Groundfish Committee and full Council had to decide five policy issues before the Staff could proceed with the Plan's development. These policy issues were:

1. The determination of appropriate annual levels of harvest by species in the demersal finfish fishery over some extended planning period.

2. The determination of an appropriate basis for the distribution of benefits (arising from harvests) among the various sectors of the industry over the fishing year.

3. The determination of an appropriate means by which catch or effort allocations are to be administered.

4. The determination as to the desireability of prohibiting additional vessels from having access to the species under regulation.

5. The determination of an appropriate basis for managing a multi-species fishery.

These policy issues had still not been addressed even after four years because as stated above, between October 1978 and the spring of 1979, the Committee decided to broaden the management unit, and a NOAA/NMFS Task Force on Multi-species Management was established "to provide for discussion of the major issues which management, government, and industry must resolve. The Task Force was made up of representatives from the fishing industry, from the academic sphere, and from the Regional Fishery Management Councils. Its job was to address the range of alternatives available, to assess benefits to be expected from each, to translate these alternatives into specific objectives, and to show, by way of example, how the alternatives might apply to specific fisheries" (Hennemuth et al. 1980).

Limit reductions and closures

Following the October Council meetings, the NMFS Regional Director recommended to Terry Leitzell that he reduce weekly catch limitations for some groundfish vessel classes and close the fishery for others. The recommendation was approved by Mr. Leitzell and on November 19 changes were made (Figure 3).

On December 17 additional closures occurred (Figure 3). As stated in a NMFS news release, "Heavy fishing pressure and exceptionally good weather resulted in the taking of a high percentage of the vessel class quotas....unless immediate action is taken to close the fisheries, quarterly quotas would be substantially exceeded. This would seriously jeopardize the Council's Management Plan intent to spread groundfish landings throughout the year."

A new quarter but continued worries

On January 1, 1979, the beginning of the second quarter, trip limits for each vessel class in each area reverted back to their October 1 amounts (Figure 3) with two notable exceptions: greater than 125 GRT cod and haddock in 5Y remained closed due to large first quarter overages; e.g., over 200% of the quarterly quota was taken as of December 15, 1978. These closures and prospects for the first quarter we discussed at the Council's January 3 and 4, 1979 meetings. It was stated that the Gulf of Maine catch limitations for 61-125 GRT vessels and fixed gear might need to be reduced sometime during the second quarter (January 1 - March 31) since as of December 15, 1978 those vessel classes had taken over 100% of their first quarter allocations. Although not mentioned, Georges Bank and South haddock limitations for 61-125 and greater than 125 GRT vessels also seemed to need an eventual reduction. The first quarter overages of each vessel class were to be subtracted from the second quarterly quotas; therefore, the need to reduce some limitations.

Large vessel owners from Gloucester were present, and they told of their economic problems caused by the low trip limits and closures. Thomas Norris, a Council member, noted that Canadians had large overruns of their allocations, and these overruns made U.S. overages look miniscule. Additionally, at this meeting, Jack Dunnigan, then of NOAA's General Counsel Office, stated that his office was not going to settle for 14 cents on the dollar as was done for 1977 penalties for violations of regulations. He also explained that backlogs of cases and long delays of final settlements of violations were due to the many procedural safeguards to protect rights of accused, the paperwork, and need for individual consideration of each case.

On the day of the next Council meeting, February 7, 1979, new trip limit reductions and closures effective February 4 were discussed (Figure 3). Many fishermen were present to express their frustrations. Some were quoted as saying, "Let's all go fishing and get arrested together! To hell with them, we've heard enough talk!" (Barlow, Maine Commercial Fisheries, March 1979). Moreover, three busloads of New Bedford fishermen arrived to present their views on yellowtail flounder management in general; i.e., the 69° dividing line between "stoc reporting problems; forced fishing of all or most yellowtail vessels east of 69° due to the westward closure (caused large an small boat fishermen to fish in same areas to the detriment of the latter); and, increased fishing effort.

This meeting seemed to mark another low point in the Council/NMFS relationship. Some Council members were displeased that NMFS would act to close the fisheries and reduce limitations without first consulting the Council (3 day notice given to Council). In fact on February 1 after hearing of the impending actions, the Council Executive Director and Chairman Allen Peterson, went to Washington to meet with Terry Leitzell, his staff, and Regional Office personnel.

What to do?

At the Council meeting it was related that three options resulted from the Washington meeting: 1) adjust quarterly allocations; i.e., borrow from the third and fourth quarters; 2) adjust trip limits in spite of economic closures caused by reductions; 3) space out closures through the remainder of the year to cause the least disruption to the industry. Council members discussed the options and continued debate on the following day (February 8) at which time the Council decided to recess until February 16, "and that in the interim the Council staff in concert with the Groundfish Committee be directed to explore various options for reallocations of the groundfish OY and that the Committee report on their findings and make recommendations at that time." Another motion was made by Jake Dykstra. Because the anticipated Committee recommendation and expected subsequent Council decision could not be acted on by NMFS for about two to four weeks, Mr. Dykstra moved and the Council accepted the following: "the Council urges that NMFS rescind existing closures and refrain from further closures pending further recommendations on the management of groundfish from the Council." While some may have considered this vote irresponsible, in the opinion of many Council members, there was no other alternative. Robert Hanks, then Deputy Director of NMFS, called the vote inconsistent with the Plan and the intent of the FCMA.

The Groundfish Committee met on February 9 as directed by the Council to formulate recommendations for the February 16 Council meeting. A "grasping at straws" attitude seemed to exist and the Committee finally decided to in some cases recommend a deduction of the entire first quarter overage from the second quarter and in others to distribute overages over the second, third, and fourth quarters in proportion to the original quotas.

The stocks cooperate

At the February 16, 1979 Council meeting it was agreed that regardless of how first quarter overages were accounted for, annual quotas would run out rather quickly; hence, the outlook for the remainder of the 1978-1979 fishing year looked bleak. Fortunately, however, subsequent to the February 9 Committee meeting it was learned that preliminary information from the Northeast Fisheries Center of NMFS indicated that some of the groundfish stocks (not yellowtail) had improved and that perhaps this improvement would justify increased OY's before current quotas were exhausted. Based on this bit of optimism, after lengthy debate, the Council voted to: 1) direct the Groundfish Committee, subsequent to an in-depth review of the current status of the groundfish stocks and other relevant considerations (social and economic), produce an amendment to the Groundfish Plan to be consistent with the condition of the stocks and other relevant considerations; 2) direct the Groundfish Committee to present this amendment to the Council along with short-term objectives at the March 14-15 meetings; 3) direct the National Marine Fisheries Service, in view of impending Council actions, to rescind the closures and implement economically feasible trip limitations.

As told by Barlow (Maine Commercial Fisheries, March 1979),

> "This motion, however, offered little hope of relief for the yellowtail fishery. Mickelson offered the following motion which he believed would alleviate the severe problems being faced by yellowtail fishermen: 'that the Groundfish Committee report to the Council at the next appropriate meeting with a yellowtail Plan amendment which will give full consideration to sociologic and economic as well as biologic considerations; and that in the interim the NMFS immediately re-open the yellowtail fishery west of the 69° with a trip limit of 2,500 lbs.' The motion was accompanied by the statement that 'I'm not concerned about a few thousand tons of fish when compared to the human situation.'
>
> However, estimates varying from 4 to 20 days of fishing before the entire annual quota would be used up, coupled with the preliminary reports from the Center that the original estimates of the yellowtail stock size were correct, appeared to convince most Council members that opening the fishery at this time was not the correct move to make and the motion was defeated. (8-5 vote)"

Reopenings

In keeping with the Council's third directive, NMFS opened the fishery for 0-60 haddock (5Y) and 61-125 cod and haddock (5Y) by adding third and fourth quarter tonnages to the second. This was done on March 13, 1979. At the same time NMFS doubled trip limitations for some vessel classes (Figure 3). This action, although favorable to the Council's position, opened the Regional Office to criticism. As noted by Robin Peters, President and Chairman of Fish Communications, Inc. (Maine Commercial Fisheries, April 1979), the NMFS action to borrow from later quarters to avoid closures was inconsistent with their 1977 refusal to borrow from later quarters to prevent closures. Also, Ms. Peters noted that by taking tonnage from the third and fourth quarters, those fishermen who had not yet had an opportunity to get their share of the resource (cod in particular) and who normally had their best fishing in the third and fourth quarters (e.g., Maine fishermen) might be shortchanged by an even earlier closure during those times brought about by the "borrowing". The Mid-Atlantic Council had expressed a similar concern earlier about yellowtail. That Council objected to closures of the yellowtail fishery west of 69° during the winter when "their" fishermen had their best opportunity to harvest that species. This Council concern was repeatedly mentioned at 1978 Groundfish Committee meetings by their representative.

Unexpected turn of events

At the mid-March Committee meeting which was set up to address the status of the stocks and possible increases in OY's, unexpectedly and to everyone's astonishment, the NMFS Regional Office suggested a new Groundfish Plan with significantly higher OY's for all species in all areas except for yellowtail flounder. Those suggested increases were:

cod	5Y	8,500 to 15,000 MT
	5Z/6	22,000 to 42,120
haddock	all areas	14,900 to 50,000
yellowtail	all areas	8,100 to 10,000

They also suggested trip limits of 3,000 lbs. per man per week or trip whichever was longer of cod and haddock in any mix, with an additional boat share. Boats were to be assigned a set number of men with a maximum of nine. For day boats, they proposed only 600 lbs. per man per day with no boat share. Some other measures were: only 5 1/2" cod end mesh could be allowed on board and 5 1/2" for gill nets; no more than 10% of the catch could be less than 18"; no piggybacking; states should be asked to regulate groundfish fishing in their waters otherwise OY's would have to be low; Council should consider freezing groundfish permits and eliminate the distinction between the 5Y and 5Z/6 areas to ease enforcement. The Regional Office stressed that the entire package of suggestions would have to be accepted; otherwise, they would withdraw their support for the suggestions. It should be noted that NEFC scientists did not share the Regional Office's view on the appropriateness of the management regime, specifically the size of the OY's.

Amendment for increased OY's

At its March meetings, the Council voted to prepare an amendment to the Plan to increase OY's and to request the Secretary of Commerce to implement the amendment on an emergency basis. Proposed increases were less than those suggested by NMFS since the Regional Office's OY's were considered somewhat premature. Council Staff and others did not have an opportunity to analyze their impacts in detail. According to Robert Jones, then Chairman of the Groundfish Committee, the Council's recommended increased OY's, "appeared to be the level which could be sustained in the short term, and in many cases in the mid-term, as acceptable biological catches". These increased OY's were:

cod	5Y	12,000	
	5Z/6	35,000	
haddock all areas		32,500	(5Y, 30%; 5Z/6, 70%)
yellowtail all areas		10,000	(50% E 69° and 50% W 69°)

Unfortunately, even with the proposed 5Y cod OY, Staff analyses indicated that significant closures would still occur. Other OY's were expected to provide for a minimum to no closures in the other areas. The exception was for yellowtail flounder W 69° which the Council decided to close on April 27. Yellowtail management continued to be an especially perplexing problem.

The Council also decided to take this amendment to public hearings with hopes that it could be implemented by July 1, 1979 (unless implemented sooner by Secretarial action). It also voted to eliminate the "piggybacking" provision in the Plan and to further consider the merits of NMFS' proposal This later recommendation was not favored by Spencer Apollonio who felt that the Staff was well on its way to develop a new Groundfish Management Plan (multi-species plan) and that Staff time should not be diverted from that goal.

April 18 and 19, 1979 meetings were, as usual, dominated by discussions on groundfish management which during this month revolved around a long string of recommendations to establish new OY's for the October 1979 to September 30, 1980 fishing year and other management strategies; i.e., the NMFS proposed scheme involving allocation strategies, mesh sizes, and minimum fish sizes. Many of the NMFS recommendations agreed to by the Committee at its April 11 meeting were offerred for Council adoption but nearly all were rejected overwhelmingly by the full Council. The OY's accepted at the March Council meetings were reaffirmed. More public hearings were scheduled for May. These were to follow the recently completed April 14 and May 12 and 16 public hearings. This quick succession of hearings on Plan changes contributed towards public confusion and frustration with the entire management process. The first set of hearings dealt with an increase of OY's to higher levels for the remainder of the 1978-1979 fishing years while the second set dealt with keeping those same OY's for another year.

Mid-Atlantic Council concerns

In April the Mid-Atlantic Council representative stated that Council's view on the Groundfish Plan. They wanted adjustments of the weekly/trip limits to provide for fishing throughout the quarters "to insure fair and equitable opportunity to all fishermen and that no particular sub-area or group of fishermen acquire an excessive share of the fishery". Additionally because Mid-Atlantic fishermen historically caught the majority of their yellowtail during late fall and winter, they wanted the 1st and 2nd quarterly quotas for yellowtail west of 69° increased. This view was reiterated at the May Council meetings by the Mid-Atlantic Council Executive Director.

Closures

On April 28, the yellowtail fishery west of 69° closed. Also, on April 22 the cod and haddock 61-125 5Y fisheries closed because annual quotas had been taken. The latter cod and haddock fisheries had reopened on March 13. This opening and closing in approximately one month's time further contributed to the fishermen's belief that the Council didn't know what it was doing.

June meetings

Status of the groundfish fishery was related at June 27 and 28, 1979 Council meetings, as it was at all meetings. The Gulf of Maine cod and haddock fishery was expected to result in significant overages of fishing year

(October 1, 1978 to September 30, 1979) quotas for almost all vessel classes even with soon to be amended fourth quarter quotas which in almost every instance were to double existing amounts. Consequently, the NMFS Regional Office recommended to the Assistant Administrator for Fisheries that he close the directed fishery for cod for all vessel classes in the Gulf of Maine for the remainder of the fishing year (3 months). All vessels greater than 60 GRT (excluding fixed gear) fishing in the Gulf of Maine were to limit their catches of haddock to those of by-catch. No closures were yet recommended for cod and haddock on Georges Bank/Southern New England. A continued closure of the yellowtail fishery west of 69° was recommended; east of 69° was to remain open.

The Council voted to recommend that the National Marine FisheriesService increase catch limitations for cod and haddock on Georges Bank/Southern New England so that the industry could harvest projected surpluses resulting from amended 1978-79 fishing year fourth quarter quotas. Additionally, the Council stated its intention to hold public meetings to gather information for potential amendments to the plan in effect and for consideration in the development of the Atlantic Demersal Finfish Management Plan.

As part of the process to develop a new, more realistic management plan for cod, haddock and yellowtail flounder, the "Statement of the Problem - Part 1" was adopted by the Council for the Atlantic Demersal Finfish Fishery Management Plan. The Statement,

> "establishes a need for simultaneous determination of management regulations for all demersal finfish species which as a combined resource complex form the major source of incomes and benefits to the New England and Mid-Atlantic otter trawl and fixed gear fleets as well as to recreational user-groups."

and

> "recognizes that management plans for individual species in supporting the demersal finfish fishery resource complex are currently being prepared by the New England and Mid-Atlantic Councils or through the National Marine Fisheries Service State/Federal program, and proposes eventual integration of these plans into the Atlantic Demersal Finfish Fishery Plan so as to ensure that management regulations for individual species are compatible and established with reference to aggregate impacts on the resource complex and the industry user-groups."

The New England Council hoped to eventually incorporate cod, haddock, yellowtail flounder, fluke, other flounder, silver hake, red and white hakes, pollock, redfish, butterfish and scup into a comprehensive plan and realized that this had to be done with much justification and cooperation from all concerned, particularly the Mid-Atlantic Council.

Catch limits changed

On July 22, 1979 the Regional Office's recommendations for additional 5Y closures were implemented (Figure 3). Trip limits were raised for cod and haddock in the Georges Bank/South area for all vessel classes (as requested by the Council.) The increase in OY's (except for yellowtail) were accepted by the Secretary and implemented on an emergency basis. Justifications for these increases in OY were described in a Federal Register announcement (42 FR 14064).

> "The Assistant Administrator, acting on behalf of the Secretary of Commerce, has approved the increases in the optimum yields and domestic commercial quotas for cod and haddock. The new OY for cod in the Gulf of Maine of 11,380 metric tons (mt) is below the reported commercial landings for calendar year 1978 of 12,242 mt. It is, however, in excess of the maximum sustainable yield (MSY) of 10,000 mt, which was specified in the original FMP of March 14, 1977.
>
> The Council deliberately proposed this temporary OY above MSY because it believes the higher harvest level will not harm the stock on a short-term basis, and because it believes that the FMP's economic and social objectives will be served by the increase. The new OY for cod in Georges Bank and South of 34,960 mt is approximately equal to the reported 1978 landings of 35,419 mt (26,300 mt U.S. commercial and 9,119 mt Canadian). The new OY for haddock of 28,154 mt is moderately higher than the reported 1978 commercial catch of 26,957 mt (16,300 mt U.S. commercial and 10,654 mt Canadian). The increase is based on optimism over the prospects of a large 1978 year-class of haddock."

The yellowtail OY was not increased because NMFS felt the Council "did not show adequately that the increased risk of population decline associated with increased levels of catch was appropriate from an examination of social and economic factors in the fishery." Also, "The proposed increases in OY would have no impact on the Council's desire to manage the fishery without closures. The fishery west of 69° has exceeded even the proposed increased OY and would have to remain closed whether or not the OY was increased."

Request for Plan extension

At its next meetings (August 1 and 2, 1979), the Council, recognizing that the 1978-1979 fishing year regulations were to expire on September 30, 1979, requested the Secretary of Commerce to implement on an emergency basis a Secretarial amendment to the Plan "extending the 1978-1979 management measures including the OY's as amended by the July 22, 1979 action of the Assistant Administrator for Fisheries, into the 1979-1980 fishing year". This was requested because "the administrative processing and implementation of Council amendments could not occur before the beginning of the new fishing year. The Council amendment could not be implemented before June, 1980 (Note: this amendment establishing 1979-1980 OY's and other measures was not approved and implemented until August 1981 - an unbelievable delay).

A new direction

The Council's frustration with the longstanding groundfish management dilemma became increasingly evident. A lack of faith in appropriateness or achievability of the plan's objectives, unenforceable regulations, and apparent widespread civil disobedience, the general belief that the current plan was unworkable, an increasing lack of understanding of what was happening in the industry, and at least a two-year wait before implementation of the Atlantic Demersal Finfish Fishery Management Plan, all served to support efforts to abandon the existing plan.

These efforts were manifested in a discussion of an August 2, 1979 motion made by Spencer Apollonio. He moved:

> "that the Council eliminate the present system of species quotas, vessel class allocations, trip limits, and seasonal and geographical allocations as soon as possible. That the Council implement appropriate species spawning area closures and mesh regulations, as determined with scientific and industry advice; and

> "implement an effective fishing data collection system, the sole purpose of which shall be to acquire reliable information on the normal fishing characteristics of the industry. The Council shall consider implementation of such other enforceable, practical, and useful management regulations as the Groundfish Committee may recommend during the 90 day period beginning September 5, 1979.
>
> "That the staff develop a groundfish management plan with an appropriate concept of optimum yield in support of these regulations."

In answer to questions on potential overfishing,

> "At the very least, according to Apollonio, some of the questions with which the Council has been wrestling over the past two years would be resolved. If there were a crash, or a reduction in numbers to the point where it was not feasible to fish commercially, it would at least prove clearly and unequivocally that it is possible to overfish and that there are valid reasons for resource management. On the other hand, if fishermen continued to do very well, the assessments would be proven wrong once and for all. In either case, there would be a good, solid and reliable data base from which to proceed."
>
> "Those who spoke in opposition did so for a variety of reasons. Norris was concerned about the reaction of the Canadians; Hanks acknowledged that the current plan was not a long term solution but had worked somewhat and that to abandon it would not be in the public interest; and Drake was opposed because he believed Apollonio's plan would cause an influx of new entrants...." (Maine Commercial Fisheries, September 1979.)

After discussion pro and con, before a vote was taken, the motion was referred to Committee and Staff for further evaluation. Mr. Apollonio was asking for a new Plan to be written in an extremely short period of time. Mr. Apollonio was certain that it would not take long to develop a Plan based on his motion.

The Council Staff evaluated Mr. Apollonio's motion and reported at the September Council meeting:

1) Assuming adequate justification, any plan structured around the motion would take at least 180 days for implementation after submission to the Secretary of Commerce.

2) National Standards #1 and #5 of the FCMA might be violated. NS #1 requires management measures to prevent overfishing while achieving on a continuing basis the optimum yield from each fishery, and NS #5 requires conservation and management measures to promote efficiency in the utilization of fishery resources.

3) Recently adopted objectives for management of the Atlantic Demersal Finfish Fishery would have to be re-examined.

4) A plan structured around the motion would set back efforts to evaluate multi-species management strategies, unless the Plan was regarded as one possible strategy for the Atlantic Demersal Finfish Fishery Management Plan.

Mr. Apollonio considered the Staff's analysis as a series of "dragons" which could be slain. He stated that the present plan was leading to inequities, overfishing, gross inefficiency, excessive fuel costs, and misreporting of species caught and their locations. He felt it irresponsible to force fishermen et al. to live with the current plan for at least two more years, and thought it would be very difficult to implement an Atlantic Demersal Finfish Fishery Plan after two more years of stress under the existing system.

Allen Peterson, Regional Director of NMFS, stated that he was sympathetic with Mr. Apollonio's motion. He realized the current plan was not the way to go, but he limited his consideration of changes only to those which would improve the current plan, not abolish it. Mr. Peterson asked Mr. Apollonio to provide definitions and details which Mr. Apollonio could not provide. Mr. Peterson noted that some facets of the groundfish industry had approached him in support of the current plan; i.e., they did not want trip limits raised, and he related his concern over a Canadian response to U.S. liberalization of groundfish fishing.

The outcome of lengthy debate primarily between Messrs. Peterson and Apollonio was a re-drafted motion which stated,

> "that the Council implement a new groundfish plan as soon as possible to replace the present plan. The new plan shall remain in effect until the Atlantic Demersal Finfish Plan is implemented. The new plan shall include in its objectives:
>
> a) enhancement of spawning activity of haddock by means of appropriate spawning closed areas.
>
> b) reduction of the risk of recruitment overfishing of cod, haddock and yellowtail flounder by means of appropriate mesh sizes.
>
> c) acquisition of reliable data, in support of the development of the ADF FMP, on normal fishing patterns of the industry and the biological attributes of the stocks as may be determined by commercial activities.
>
> The plan shall make provisions for all appropriate and enforceable regulations which lead to the stated objectives."

This motion was passed (11-1) and was to serve as a working document for the Council, Staff, and Groundfish Committee.

With regard to Canadian intent on groundfish management, the substance of a note from the Canadian embassy to the U.S. Department of State was given. The Canadians agreed that the increased optimum yields levels were justified. They intended to make adjustments in quotas for Canadian fishermen based on percentage shares in the pending U.S./Canadian Treaty, (Gulf of Maine cod, 1.6 percent; George's Bank cod, 17 percent; haddock in all areas, 21 percent). The Council questioned whether the "new" Canadian quotas were appropriate. The eventual adjustments were:

Cod	5Y	(80 to 182 MT)
	5Z	(4855 to 5943 MT)
Haddock		(3900 to 5933 MT)

Interim Plan development begins

Development of the "Apollonio Plan" or the "Interim Plan" as it was later to be called, began in earnest during September. A September 18, 1979 Groundfish Committee meeting (Spencer Apollonio now chairman) discussed the proposed Plan and its problems in depth. For instance:

1) Should there be a variety of meshes for different fisheries or different regions?

2) Could mesh size restrictions be effectively enforced?

3) How should closed areas for nursery and spawning purposes be defined?

4) How would these areas be identified?

5) Should spawning areas be short or long term?

6) How should data be collected?

7) How should OY be defined?

8) Who would write the Plan?

9) What would be the Canadian reaction?

It became apparent to everyone that the Interim Plan, in whatever form, was a long way from implementation and that the existing management regime regardless of its drawbacks would also be in existence for a considerable period of time.

The new year

On October 1, 1979, Terry Leitzell continued the 1978-1979 Plan into the 1979-1980 fishing year. Optimum yields and quarterly quotas remained the same. For the open fisheries for cod and haddock, weekly catch limitations were those in place at the end of the 1978-1979 fishing year. For vessel classes closed at the end of the fishing year, trip limits were to revert to those in existence on October 1978. Yellowtail west of 69° was to be restricted to 1,500 pounds per week in an attempt to preserve more of the quota for the traditional inshore winter fishery in southern New England and mid-Atlantic Council concern over "their fishery", particularly that carried out by Long Island fishermen in the first and second quarters. A special Secretarial hearing was held on September 20, 1979 in Long Island, to address this specific concern.

NMFS also stated that increased OY's proposed in the Council amendment (voted on at the April 1979 Council meetings) had not yet been approved by the Secretary of Commerce. If approved, January or February was the earliest date for implementation. The most important decision was, "If the amendment cannot be adopted in a timely manner, it will be necessary to reduce weekly limitations in many vessel class categories." (Note: August, 1981 was the date of implementation).

Yellowtail concerns

At November 7 and 8, 1979 Council meetings the Regional Director announced that the yellowtail fishery would likely be closed in late November or early December. Landings were very high - in part because of state territorial waters loopholes. It was suggested to the Regional Director that these landings were indicative of high yellowtail abundance and poor enforcement; trip limitations were considered to be ridiculously low. Jacob Dykstra stated, "...The availability of yellowtail to the gear is presently fantastic. They catch more than their trip limitation in one tow and have to dump them back over the side. What is happening is that the marketplace is governing what is being landed in yellowtail. Prices go down systematically. Fish are being landed and I feel that even if we close these loopholes the fish will continue to be caught." The Regional Director also announced problems with cod and haddock for some vessel classes.

These sorts of comments about yellowtail abundance by Council members, and fishermen too, prompted the State of Rhode Island to design its own winter survey specifically for yellowtail flounder to supplement NEFC and Massachusetts Division of Marine Fisheries spring and fall bottom trawl surveys. Significantly, the Point Judith Fishermen's Cooperative and the New Bedford Seafood Council agreed to pay 50% of the survey's costs. The survey was to begin in February, 1980.

A bit of optimism

At these November meetings, Spencer Apollonio announced that a draft of the new Groundfish Plan was expected to be completed before December meetings (Note: the Draft was submitted to the Council for its approval on September 29, 1981 - almost two years later).

Futility of closures recognized

At December 12 and 13, 1979 meetings, status of the groundfish fishery was related for the period October 1 to November 15, 1979 (the beginning of the new fishing year). Quarterly cod quotas for vessels greater than 125 GRT fishing in the Gulf of Maine and on Georges Bank and South were projected to be taken before the end of the quarter. For haddock, only vessels 61-125 GRT which fished on Georges Bank and South were in a similar situation. Yellowtail flounder catches had also outstripped the quarter allocation.

It was reported by Dr. Hanks that no closures were contemplated. NMFS recognized that state territorial waters' loopholes circumvented the purpose of closures; therefore, futility of closures was evident. He stated that the Regional Office was preparing an action memo for Washington NMFS to address this issue. In the opinion of some, while Massachusetts groundfish regulations were restrictive; i.e., 2,500 lbs. of yellowtail flounder, 1,500 lbs. of haddock, and 2,500 lbs. of cod per trip, other states' regulations were not. Constant high landings of yellowtail flounder occurred in Rhode Island and Maine. Hence, lack of appropriate regulations in other states, particularly for yellowtail flounder at that time, finally prompted NMFS to "get tough" with the states.

The yellowtail management problem also existed due to the nature of the Council plan itself; i.e., the quota breakdown for the yellowtail flounder fishery east and west of 60° west longitude and an inability of managers and fishermen to reconcile southern New England yellowtail stock fishermen's observations/landings and stock assessments. Assessments were significantly hampered by trip limits; an inability to determine where yellowtail were actually caught; and, unreliable catch-per-day-fished information.

Work Plan

At these December meetings the Groundfish Committee also presented a Work Plan for the new Groundfish Plan. The Work Plan's purpose was to identify all salient issues for groundfish management and to prepare initial responses/ positions with regard to those issues. It was needed by Washington NMFS before any substantial funds could be spent by the Councils on plan development (Executive Order 12044). The Work Plan represented a new step for Councils to follow in their development of FMP's and was viewed by some as another bureaucratic hindrance, and by others as a a proper first-order strategy. Some issues to be discussed were:

1) Whether enforceability was a sufficient criterion for rejection of a strategy or measure;

2) Whether existing mesh size restrictions and spawning area closures were sufficient conservation measures pending ADF and given the current management environment;

3) Whether specific contingency measures had to be identified to protect against exploitation levels which might seriously jeopardize future management options for cod, haddock, and yellowtail.

The Work Plan indicated that, because of administrative review periods, the earliest date for implementation would be November, 1980.

Permit sanctions

Proposed rule-making on groundfish permit sanctions was also discussed in December, and it stirred great debate. NOAA/NMFS proposed a system under which violations of groundfish regulations would be assigned points according to a prescribed schedule. Accumulation of a certain number of points would lead to automatic temporary suspension of the vessel's groundfish permit. Council members expressed concern over a variety of issues and ultimately voted to endorse the concept of permit sanctions to be used against those repeatedly convicted of serious violations. However, they voted to request NMFS to hold off on implementation of the regulations and to incorporate the concept into the new plan. The primary logic behind this decision appeared to be three-fold.

a) Existing groundfish regulations were confusing and often difficult or impossible to obey;

b) The time between violation and assessment of civil penalty was to be shortened;

c) NMFS was about to, as a matter of policy, routinely seize illegal fish.

The latter was an immediate action in contrast to point accumulation after conviction. NMFS representatives were in favor of implementing the point system as rapidly as possible and expressed their displeasure at the Council action especially since, in their opinion, the Council had been seeking this sort of punitive measure. Industry viewed the point system as inappropriate. Maine Commercial Fisheries satired the system with the following cartoon.

"Didn't you read the fine print in the Xmas issue of the Federal Register? We feel this makes the point system more meaningful
.....for selling dogfish to a Lithuanian processing ship without a license, 2 points or 6 lashes, for grammatical errors in the logbook 1 point or 3 lashes, and for extreme rudeness to the boarding officer, 3 points or ....
McKinley

Maine Commercial Fisheries
January 1980

1980 begins

Nineteen hundred and eighty began with further groundfish problems. First, the Regional Office asked the Council to approve its recommendation for a Secretarial Amendment to the Groundfish FMP. The Amendment was to establish a 1,000 lbs/trip yellowtail flounder limitation for vessels using small mesh nets, and using groundfish mesh during a closure. It was related that a closure of the yellowtail flounder fishery west of 60° would follow the Amendment's approval. NMFS's recommendation was an effort to make regulations easier to understand and apply in practice. Existing regulations allowed use of small mesh nets when it could be demonstrated that a vessel's catch of groundfish for an entire trip was less than the larger of 1,000 lbs. or 10% of the total fish landed by weight for any groundfish species. Its catch also had to include 2,000 lbs. of fish other than groundfish caught on the same trip (except for vessels in the shrimp fishery). Also, during a closure vessels using groundfish mesh could take no more than 500 lbs. of yellowtail or 4% by weight of all fish on board whichever was the lesser amount per trip.

These regulations were very confusing and difficult to apply in practice. For example, assume a fisherman went fishing with a small mesh net for whiting. His first tow yielded 5,000 lbs. whiting, 3,000 lbs. winter flounder, and 2,000 lbs. cod. As of the first two he was in violation. He had 1,000 lbs. of cod in excess of the allowable limit. A second tow had to be made. The second tow plus poundage of the first gave him 10,000 lbs. whiting, 5,000 lbs. winter flounder, 2,000 lbs. dabs, and 3,000 lbs. cod. He was still in violation (total catch 20,000 lbs.; 10% of 20,000 = 2,000; 3,000 lbs. of cod is 1,000 too much). A third tow had to be made, etc. Compliance with incidental catch regulations was a hit or miss proposition and put the fisherman in an awkward position and in need of a calculator.

Another situation might have been as follows. A fisherman pursuing species other than groundfish and using small mesh nets, caught 1,800 lbs. winter flounder, dabs, and hake plus 600 lbs of cod, haddock, and yellowtail flounder. His winch broke down (or weather deteriorated) and he was forced back to port. He was in violation since he lacked 200 lbs. of other species needed to fulfill the 2,000 lbs. requirement. He could not legally discard.

The closure provision encouraged use of small mesh nets when fishing for yellowtail during a closure since greater amounts could be taken than when larger groundfish mesh was used. For example, a vessel fishing with small mesh nets could legally take per trip 40,000 lbs. of other species and 4,000 lbs. (10%) of yellowtail while a vessel with groundfish mesh could only take 500 lbs. of yellowtail. Use of small mesh nets was particularly undesireable when small, immature fish were present on the grounds and made up of a major portion of the available yellowtail stock - the situation which existed in 1980.

A closure of the yellowtail flounder fishery west of 69° W. Longitude was considered necessary by NMFS since from October 1 - December 31, 1979 (1st quarter of the fishing year) 3,378 MT were taken from that region. The quarterly quota and fishing year OY were 960 MT and 5,000 MT, respectively. The situation east of 69° W. Longitude was not much better although steps were not taken to close that fishery.

The Council voted to concur with the Regional Office's proposal for a Secretarial Amendment. There seemed to be a consensus that any action taken to make the Plan's regulations more sensible would be worthwhile. While there was concern, that the 1,000 lbs. per trip was economically unsound, it was tempered by the realization that some state territorial waters loopholes were still in existence; hence, the 1,000 lbs. would not be restrictive on the fishery. The Amendment, if accepted by the Secretary was to be an Emergency Amendment to be in effect for 45 days with a possible additional 45 day extension. In the interim a formal, complete Council Amendment to the Plan was to be prepared.

Amendment Number 4

Expected disapproval of Council Plan Amendment #4 with its provisions to increase OY's, etc. raised a great deal of concern. The Amendment was submitted to Washington NMFS sometime in September for final review. While the Council had yet to receive any formal notice of disapproval from Washington NMFS, the NMFS Regional Director related his perceptions of Washington's intent; i.e., disapproval. Washington apparently felt that it could not approve an increase in mesh size for the groundfish fishery since mesh size regulations in the existing Plan were not enforceable; e.g., more than one mesh was allowed on board a vessel during a trip; hence, the Amendment (and the section pertaining to the increased OY's) could not be approved. It was Washington's understanding that the Council stated in its Amendment that all provisions had to be accepted as a package or not at all.

Two points were immediately raised. First, a failure to pass the Amendment would immediately force the fishery to operate under the old OY's of 1978-1979 (NMFS Regional

Office had to this time been assuming that the new 1979-1980 OY's would be approved and regulated the fishery as if they were in place). The old OY's for cod, haddock, and yellowtail flounder combined were approximately 27,000 MT less than the new OY's. Lacking the increase, many vessel classes of commercial fishermen would have far surpassed their first quarter allocations, likely surpassed second quarter allocations, and surely faced major cutbacks in effort sometime before the beginning of the new fishing year in October, 1980. Secondly, mesh size regulations in the existing Plan were just as unenforceable; hence, how could the issue of enforceability suddenly be so critical a factor?

Washington's belief that the provisions of the Amendment were inseparable were not without justification. The Amendment stated:

> "Numerous alternatives to the proposed action are of course possible. Considerable thought and discussion by the New England Fishery Management Council has led to the conclusion that a viable system of management must recognize the interactions between resource components and their collective interaction within the groundfish industry. The proposed management measures attempt to incorporate some of these interactions in a consistent manner and should therefore be viewed as a single package of non-substitutable components (emphasis added). Revision of any single measure may require re-analysis of other measures and possible modification of the entire package."

To increase chances of at least acquiring partial approval of the Amendment; i.e., increased OY's, the Regional Director requested the Council to clarify its intent on the separability of issues. In response, Council Staff was to reword the Amendment. It was anticipated that the Amendment would be changed to indicate that issues were indeed separable particularly since the Council, as part of the development of the new Groundfish Management Plan, was addressing the issue of the "most appropriate" mesh size for use in the fishery.

The issue of enforceability was another matter. NMFS was quite correct in stating that existing and future mesh regulations were unenforceable unless further changes in the Plan were made; e.g., only one mesh size on board per trip. However, the Council's displeasure with NMFS's "late" judgement antagonized some Council members et al, and led to beliefs that NMFS was "manipulating" the Council. It was safe to say that everyone shared the blame for this predicament, the Council for not ensuring enforceability of Plan provisions and NMFS for not being consistent in its approach for review of those provisions. It was clear that when the Council finally established the "appropriate" mesh size, it had to devise means to insure its enforceability, and NMFS had to provide clearcut guidance on how to do so.

Interim Plan discussions

February, 1980 Council meetings marked the first time details of the new Groundfish Plan were discussed. The Committee and the Council Staff were investigating the possibility of setting up "large" and optional mesh areas. A "large mesh" area would be where "large mesh" (size to be determined) could only be used; optional mesh areas would be where any mesh could be used. Any fisherman caught fishing in a large mesh area with mesh less than the required size would be in violation. At-sea enforcement was requisite.

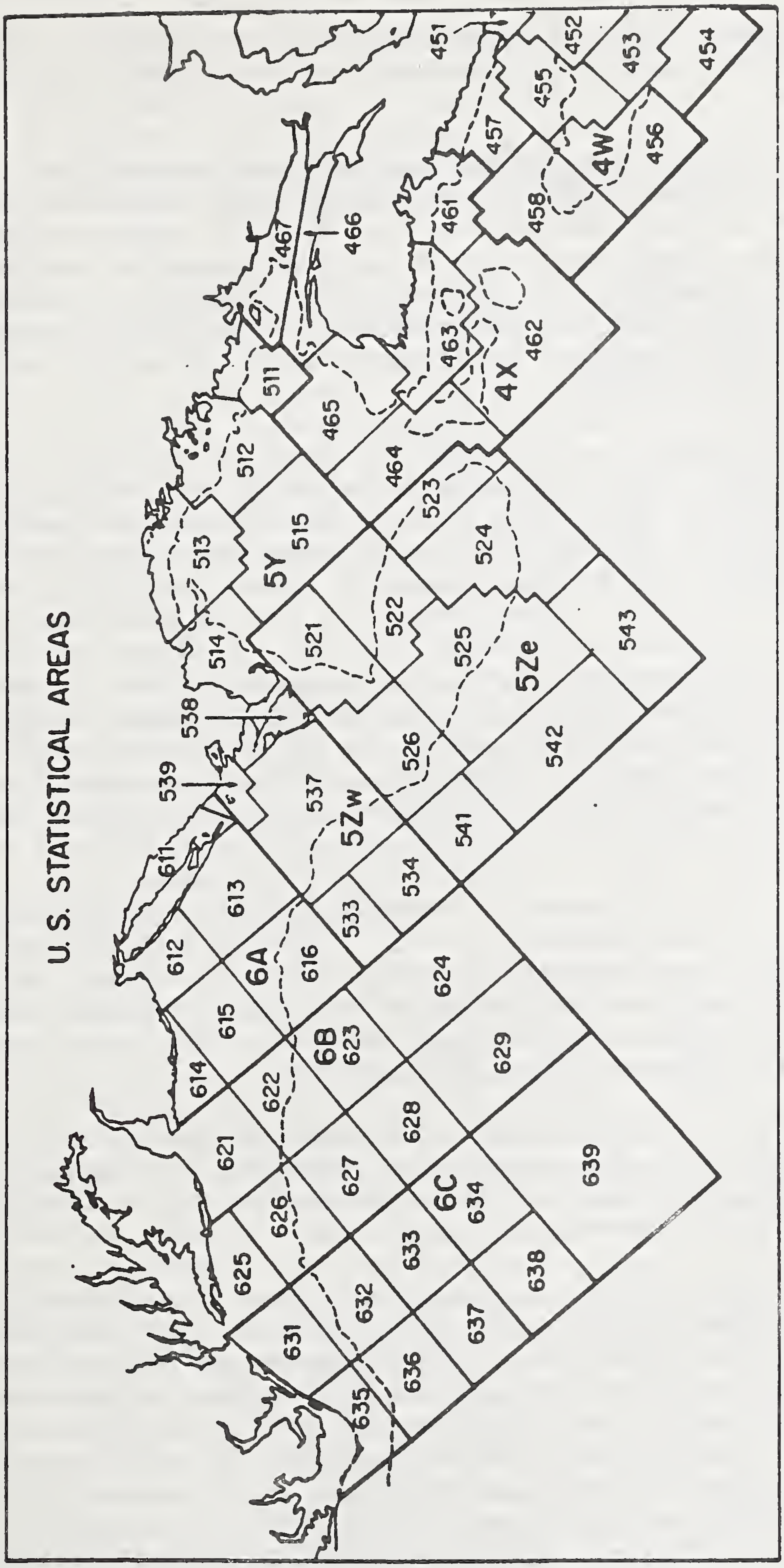
After evaluating 1976-1978 landings for ICNAF 3-digit StatisticalAreas (Figure 4), it was determined that, as a first approximation, Areas 513, 514, and 521-526 (excepting portions of 524-526) could be set aside as "large mesh" areas. Averaged from 1976-1978 approximately 93% and 84.5% of total cod and haddock landings, respectively, were recorded as caught from those areas.

It was recognized that species such as whiting and redfish were also caught in proposed "large mesh" areas and smaller mesh was needed to catch those species; hence, it was recommended that Areas 513, 514, 521, and 522 be provided with a seasonal exemption from July 1 - October 31 during which time mesh size would be optional.

Averaged from 1976-1978 approximately 59% of all whiting landings resulted from fish caught in the exempted areas from July - October 31, and approximately 16% of whiting landings resulted from fish caught in the exempted area during the rest of the year; therefore, with past percentages as guidelines, regulations requiring use of large meshed nets in 513, 514, 521, and 522 during November 1 to June 30 could have resulted in a potential loss of approximately 16% of total whiting landings. For redfish a loss of 24% could have resulted.

Since the primary purpose of the mesh/area concept was to protect juvenile, immature cod and haddock to minimize the risk of recruitment failures, it was necessary to evaluate the potential impact of the mesh exemption on those species. Again, with average 1976-1978 landings, a total

Figure 4



Source: Anderson et al. 1979

of approximately 25% of cod and 23% of haddock landings were recorded as being caught either in the exempted area during July-October 31 or outside the "large mesh" area from January-December; hence, the potentiality for significant catches of cod and haddock with smaller mesh still existed with the proposed scheme.

Another important consideration, which had yet to be addressed, was that haddock primarily recruited to the fishery from August-October as age 2 fish (approximately 16 inches). Therefore, very small haddock were to be available to the fishery during the July-October exemption especially when present as a strong year-class. The 1978 year-class which was to recruit to the fishery in summer-fall of 1980 was judged to be strong.

Before proceeding further, it should be mentioned that some people felt that circumstances of late 1977 were likely to be repeated in late 1980; i.e., in 1980 a strong year-class (1978) was expected to enter the haddock fishery; mesh size capable of catching small, immature fish or mature fish which had yet to reproduce once was to be used; and, consequently, extensive discarding was expected to occur. A significant difference between then and 1980, however, was that in 1977 the haddock fishery operated under an OY of 6,000 MT, and haddock could only be taken in other fisheries as incidental by-catch. These regulations combined with the influx of the very strong 1975 year-class at age 2 led to an incredible amount of discarding of immature fish during late summer-fall, 1977. It had been estimated from fishermen's reports by Northeast Fisheries Center scientists that a reasonable approximation of U.S. discard was perhaps twice or three times the landings of marketable haddock in terms of numbers of fish (approximately 63,000,000 young fish). Discarding of older, mature individuals continued into 1978 (and 1979) due to trip limitations.

It was for these reasons that some Council members expressed concern that the mesh size eventually chosen for the large mesh area had to be large mesh (e.g., 6") to allow for significant escapement of this strong 1978 year-class.

In addition to the mesh/area scheme, the Council discussed other means to protect young fish. The Committee proposed specific areas to be designated as nurseries and established criteria to determine when those areas should be closed in response to an industry report that small fish were present. Need for closure(s) would be validated by state representatives by sea sampling. If needed, the Groundfish Committee would meet quickly and the NMFS Regional Office would be directed to implement a closure.

Openings would occur either after a predetermined time or after further sea sampling.

The Council voted to accept the mesh/area concept and a policy of short-term closures to protect small fish. There was recognition of a need for further Staff analysis and discussion with the industry to determine nursery areas, refine mesh/area boundaries and note potential problems. Public hearings were to be scheduled.

Since enforcement was a key for mesh/area regulations, the Committee and Staff drafted a "Statement of Council Policy with Respect to Enforcement of Management Measures or Regulations". This statement stressed that "management measures which are simple, understandable, and consistent with traditional fishing practices may not require a high degree of governmental enforcement to ensure compliance by the industry". The statement also pointed out "the management experience of the last three years provides ample evidence that a management system which requires a high degree of enforcement to assure compliance will probably not be effective..."

The Council also voted to modify Amendment #4 to the Groundfish Plan so as to propose only increased OY's. The 5 1/8 inch mesh was to continue along with no minimum size restrictions for cod or haddock. It was hoped that removal of the other management measures would facilitate passage of the new OY's by the Secretary.

Amendment #4 and enforcement

As stated above, at its January, 1980 meetings the Council learned that its Amendment #4 would likely not be approved due, in part, to the unenforceability of the mesh size regulations; i.e., more than one mesh allowed on board. The Groundfish Committee met on January 15 and February 26, 1980 to address this issue. Unfortunately, after a great deal of debate, the NMFS recommendation that only one size be allowed on board could not be accommodated. In the Committee's opinion, which was later endorsed by the Council, "one mesh on board was impractical given the nature of New England's mixed trawl fisheries". Additionally, the Committee felt it would be irresponsible to forbid more than one mesh on board since the prohibition would lead to waste or inefficient use of the New England region's fuel supply"; i.e., if a vessel during a trip wished to catch a small-mesh species such as whiting to supplement its catch of groundfish, it would have to return to the dock, switch nets, then return to the fishing grounds. The issue of one mesh on board proved to be a persistent dilemma for the Council - a dilemma which also plagued the Groundfish Interim Plan.

Another Amendment

Since submission to the Secretary of Commerce of the Draft Amendment #4 in September, 1979, the Council received new stock assessment information from NEFC (based on the fall 1979 survey and the first Rhode Island yellowtail survey) and used this information to further support OY increases in Amendment #4 as well as additional increases in OY's to be implemented through a fifth Amendment. As stated in Amendment #4:

> "The Northeast Fishery Center and the Council concur that this new information supports the OY increases proposed by this action (#4), as well as potential further action to increase the haddock and yellowtail flounder OY's. The Council recognizes that timely action is necessary to alleviate what substantial evidence indicates will be a significant disparity in the exploitation rates between cod and haddock (which will result in closures and subsequent discarding of haddock this summer) if the haddock OY is not increased. The yellowtail flounder fishery West of 69° W. longitude is already closed for the remainder of the fishing year, despite the expectation of continued high catches and landings which are biologically justifiable based on this recent stock assessment information. The Council has been informed, (by NMFS) however, that it is not procedurally possible to take action in this current amendment (#4) to increase the OY's beyond the originally proposed levels."

At its April 30 - May 1, 1980 meeting the Council voted to develop Amendment #5 to revise haddock and yellowtail OY's further based on NMFS/NEFC 1980 stock assessment information. The new haddock OY was to be 44,125 MT, a 35.8% increase over OY's specified in Amendment #4. A new yellowtail OY was to be approximately 20,000 MT and represented a 100% increase in the OY specified in Amendment #4.

Amendment #5 also established a mechanism within the FMP to allow the setting of OY's to reflect current stock conditions and not to be 306 to 450 days out of phase with relevant assessment information. OY values would automatically be adjusted according to specific criteria in response to assessed changes in stock abundance. The Amendment also was to eliminate the 69° west longitude dividing line for yellowtail flounder management and the no discard rule. The Council was expected to approve Amendment #5 at its September meetings. Unfortunately, as with Amendment #4, Amendment #5 was to take approximately one year before implementation.

It was unfortunate that another time consuming Amendment was required. However, as the Council had heard so often in the past, set procedures such as Environmental Impact Statements (see cartoon) had to be followed regardless of the need for quick responses to changing resource conditions or fishing practices. Another Amendment was especially needed because Amendment #4 did not propose increased yellowtail flounder OY's.

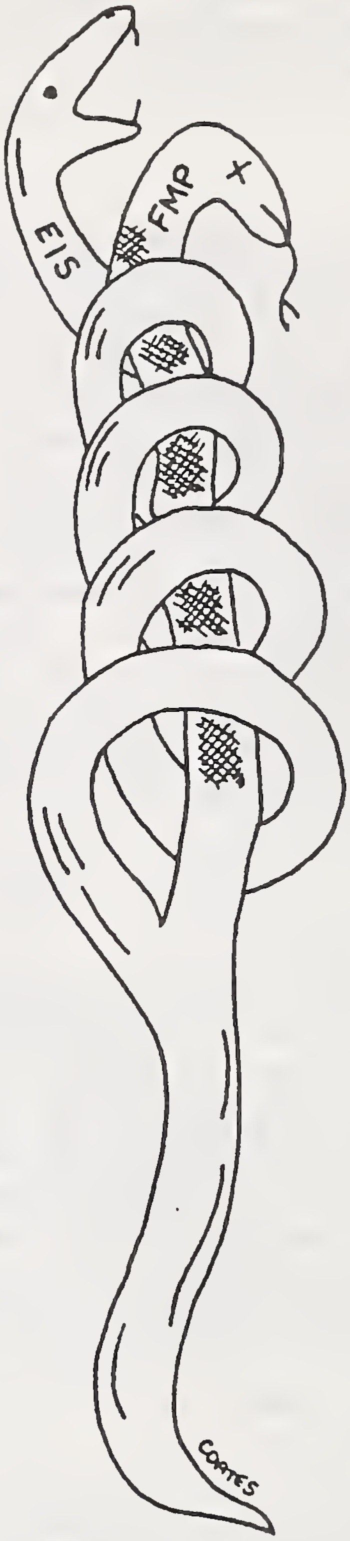
Limited options

As foretold by NMFS in January, the yellowtail fishery west of 69° was to close on April 13, 1980 and an incidental catch of 1,000 lbs. was to be the rule. The Council tried to address the problem at its March 26 and 27, 1980 meetings. The Council also had to grapple with imminent closures of the cod and haddock fisheries for greater than 125 GRT vessels. Regarding the latter closures, NMFS asked if the Council wished a short-term closure for the quarter, a reopening at the next quarter, another short-term closure, etc. or a long-term closure by allowing the large vessels to harvest their annual allocations. In response, the Council asked NMFS not to close the fishery in the third quarter (April-June) but to wait until the Committee and Staff reviewed possible options such as reallocation among vessel classes and raising OY's. The latter option was chosen by way of Amendment #5.

Anticipated closures

At June 25 and 26, 1980 Council meetings the Regional Director provided the status of groundfish landings as of May 30. Closures of the "cod fishery" were anticipated in the Gulf of Maine during late July for vessels 61 tons and larger. As of the end of May these vessels had taken all or nearly all of their annual quotas (October 1 - September 30). A similar situation existed for vessels greater than 125 tons fishing on Georges Bank and South. There were also projected closures for the "haddock fishery". The yellowtail flounder fishery west of 69° W. Longitude was already closed. A closure of the fishery east of 69° was being considered for sometime in September.

The problem of allowing continued catch of haddock but not cod was pointed out to the Regional Director. Cod and haddock were caught together; hence, any severe restrictions on cod landings would lead to significant discarding. However, the Regional Director emphasized that in his view, fishermen were currently directing their effort towards cod; consequently, the "cod and haddock fisheries" were not as mixed as some people might have been led to believe.


EIS
FMP
CORTES

Interim Plan development quickens

Considerable time had been spent in June by the Groundfish Committee with advisors on development of the Interim Plan. Five meetings were held to discuss where the Plan was going and why; the necessity for and identification of fixed area closures (spawning closures) and flexible, ad hoc area closures (nursery closures); type of mesh regulations (mesh sizes and mesh/area restrictions); and, type of data collection system to be used.

As stated previously, all Plan provisions were attempts to achieve three objectives: 1) enhance spawning activities; 2) reduce the risk of recruitment overfishing; and, 3) acquire reliable data in support of the development of the Atlantic Demersal Finfish Plan (ADF). To paraphrase, it was hoped, particularly by the primary movers of the Plan, that the Plan would provide some basic conservation measures for protection of the stocks during the interim period prior to the development of a more comprehensive ADF and provide proper environments for acquisition of data and Council policy decisions necessary for ADF development. The plan was considered by many to be a new approach to management and a better alternative to the current Plan which "has led to problems for which there are no solutions, issues which cannot be resolved, and an environment in which even the most rational measures are not accepted". The Plan neither called for trip limitations nor quotas and heavily relied on at-sea enforcement. The tenor of the Plan was that reasonable, acceptable management measures to the industry would foster compliance and need little enforcement.

As stated above, one objective of the Plan was to reduce the risk of recruitment overfishing. The Groundfish Committee had defined recruitment overfishing as "the reduction of a spawning stock by fishing to a point where reproduction holds poor potential for future recovery of the stock. It is a point where significant decreases occur in the magnitude and frequency of recruiting year-classes". The Committee also believed that the proposed management strategies "will provide a degree of stock conservation, but not total protection; they will reduce the risk, but not necessarily prevent or eliminate recruitment overfishing; they will enhance, but not guarantee spawning."

Public hearings were to be held on the Interim Plan during the second and third weeks of July. The Groundfish Committee and Council were anxious to begin public discussion on the proposed provisions and possible management options even though the Draft Plan was incomplete and ramifications of proposed actions not totally elucidated. The Council voted to send the Draft to public hearing to "feel the pulse" of the industry on acceptability of the management strategies. The Mid-Atlantic Council had already provided a preliminary review of the Draft. They raised a series of questions and did not favor public review of the Plan until more details had been completed.

Canada - groundfish/scallops

In June, concern was expressed by the Council over a Canadian decision to double its haddock and cod quotas and to take 2,500 MT of yellowtail flounder. The Council feared that these catches would have an impact on the resources and would likely contribute towards increased Canadian exports into the U.S.

In response to the Canadian action, the Council voted to send the following message to the Canadian Secretary of State for External Affairs and Fisheries Minister.

> "The Council views the proposed action to increase the harvest of groundfish on Georges with grave concern. The action is neither consistent with, nor conducive to the ratification of the proposed Treaty and in the opinion of the Council may further jeopardize the probability of ratification.
>
> The Council is particularly disturbed that the action was taken in response to a perceived increase in effort in the U.S. scallop fisheries. The Council is aware that discussions are now ongoing between fisheries administrators of our respective governments regarding the resolution of the different views pertinent to both nations' scallop fisheries.
>
> The Council believes that it would be in the best interest of the Canadian fishery to refrain from the proposed action at least until the fishery managers of both governments have the opportunity to resolve their differences.
>
> The New England Council believes that a treaty that is equitable to both nations must be implemented, and it believes that continued restraint by both nations is in order until such time as a treaty has been ratified. We trust you concur with this view."

Trip limit reductions in lieu of closures

At July 1980 Council meetings the status of the cod, haddock and yellowtail fishery was again presented. There were no projected cod closures for any vessel class fishing in the Gulf of Maine. However, to avoid cod closures for vessels fishing on Georges Bank and South, the Council reluctantly approved a NMFS recommendation to reduce trip limitations as follows: vessels 0-60 GRT, 7,000 lbs/week (Sunday-Saturday) to 4,900; 61-125 GRT, 14,000 to 9,800; greater than 125 GRT, 20,000 to 14,000; fixed gear, 16,000 to 13,000. No problems were anticipated for the haddock fishery in any management area. A closure for the yellowtail flounder fishery east of 69°W Longitude was considered a "maybe".

The public speaks?

Summaries of results of public hearings on the Interim Groundfish Plan held in July were presented. According to Spencer Apollonio, there was "a generally favorable response" to the Plan. In his view, there were "clear endorsements and no serious concerns over stock depletion or economic consequences of the Plan". He acknowledged New Bedford and Boston comments dealing with fear of economic consequences; i.e., market gluts and depressed prices caused by open fishing. He noted strong support for a 5 1/8" cod-end mesh size and that it would represent a significant increase over what was actually being used in the fisheries. Some people from Boston however, favored an increased mesh size to 5 3/4" or 6". The area/mesh size scheme received support as did the nursery area ad hoc closures, although feasibility and timeliness of the latter were questioned.

After reviewing the public hearings, Mr. Apollonio presented results of Groundfish Committee deliberations. The Committee decided to continue with development of strategies proposed in the Interim Plan. Specifics of each management measure were to be worked out at future meetings.

The Committee could not resolve one important issue, however, and sought guidance from the full Council as to how it should proceed. That issue was trip limits: should they be continued, what should be their purpose (economics, biology), what form should they take (e.g., by vessel class, on a per man per boat basis), and wouldn't trip limits lead the Council back into a morass of problems similar to those already experienced?

Mr. Apollonio began the discussion by affirming his resistance to any plan incorporating trip limits. He feared a return to past and present management problems; e.g., how large should the limits be, should they be weekly or per trip, and wouldn't fishermen be forced to discard? Furthermore, he believed that market gluts caused by lack of limits would stimulate expanded processing capacity and discourage imports of Canadian fish. Others in the audience disagreed with him. James Costakes, General Manager of New Bedford

Seafood Producers, said that market gluts would last much longer with open fishing. Joseph Brancaleone, Executive Secretary of the Gloucester Fisheries Commission, felt that inshore fishermen would suffer adverse economic impacts caused by large landings of bigger offshore vessels.

The Council decided to meet with Washington NMFS representatives to explain first-hand the direction in which the Interim Plan was going. It was felt by most members that the Interim Plan had progressed to the point where Washington NMFS could provide some insight into its acceptability.

More reductions

With the end of the 1979-1980 fishing year rapidly approaching, the Regional Director acted at August 27 and 28 1980 Council meetings to reduce weekly landing limitations for cod in the Gulf of Maine and Georges Bank and South areas. His recommendation to Washington was as follows:

> "I recommend that the weekly landing limitations for all vessel classes fishing for cod in the Gulf of Maine and Georges Bank and South management areas be reduced by 30 percent for the remainder of the fishing year (through September 30). This action will slow the rate at which cod is landed and, therefore, diminish the likelihood that the optimum yields will be exceeded. I believe the alternative 'of closing the directed cod fisheries to keep landings within the optimum yields' is not advisable because of:
>
> 1) the minimal beneficial effect closures would have on the resource;
>
> 2) the current economic situation in the New England fishing industry;
>
> 3) repercussions of closing the U.S. fishery when the Canadian fishery in the Georges Bank and South management area recently has intensified."

There were few options for the Regional Director to pursue to keep the fisheries open. Everyone realized the conseuqences of reducing trip limitations; viz., increased cod discarding as fishermen pursued other species, greater illegal landings, and misreporting, yet under the existing Groundfish Plan there was no other alternative except a complete closure.

The reductions implemented on September 7, 1980, are shown in Figure

Flexible OY details

At these August meetings there was further discussion on the Interim Plan and Amendment #5. Similarly, at September 24 and 25 meetings various components of the Interim Plan and Amendment #5 were debated. At these later meetings, the Council voted to accept the Committee proposal for a flexible OY formula which entailed:

1. Annual NEFC stock assessments or periodic updates are presented to a six-member Technical Review Committee (TRC) equally represented by members of NMFS/NEFC; Council Staff, and the Council's Scientific and Statistical Committee;

2. The TRC reviews each assessment/update and recommends an appropriate level or range of stock total allowable catches (TAC's) consistent with estimates of stock abundance and application of an optimal fishing mortality rate (F opt). TAC's are determined by applying F opt and estimated stock sizes to a formula (renowned catch equation which establishes a relationship between fishing mortality, stock size, and catch).

   If TAC recommendations lead to a TAC between prescribed bounds (cod--23,000 to 58,000 MT; yellowtail flounder--11,000 to 33,000 MT; haddock--18,000 to 55,000 MT) no amendment is necessary. On the other hand, if the TRC determines that continued fishing at established levels of F opt might be too much of a biological risk, it might recommend a change if F opt in which case an Amendment to the Plan would be needed;

3. TRC recommendations are considered by the Groundfish Oversight Committee which recommends to the Council either adjustments in TAC's consistent with the formula or an amendment. In the former case, the Groundfish Oversight Committee could provide for a 10 percent deviation from the formula determined OY's in response to short-term economic, biological, or sociological considerations. In the latter case, the current TAC's would continue in place until implementation of an amendment.

The optimum fishing mortality (F opt) corresponded to conventional biologically based management criteria; e.g., F to maximize yield per recruit at the same time providing for a margin for uncertainty and natural resource variability. The ten percent value was strictly arbitrary. Nevertheless, the Council passed Amendment #5 with all its provisions.

As an example of the kind of allowable fishing mortality under Amendment #5, F = 0.3 was to be set as F opt for cod. In terms of a percentage, F = 0.3 equalled 26% (or on an annual basis 26% of the stock removed by fishing). In other words, a 100,000 MT cod stock at the beginning of one year would be 74,000 MT at the beginning of the next with a 26% mortality (excluding other removals due to natural causes and additions due to recruitment and growth). Since natural mortality for cod was judged to be approximately 20% per year, total annual mortality for cod at F = 0.3 was approximately 46%. However, if poor year-classes entered the fishery, a 46% annual removal might be too high and cause significant stock size declines. In this case, the TRC would have to rethink F opt and initiate an amendment procedure.

Trip limit tabled

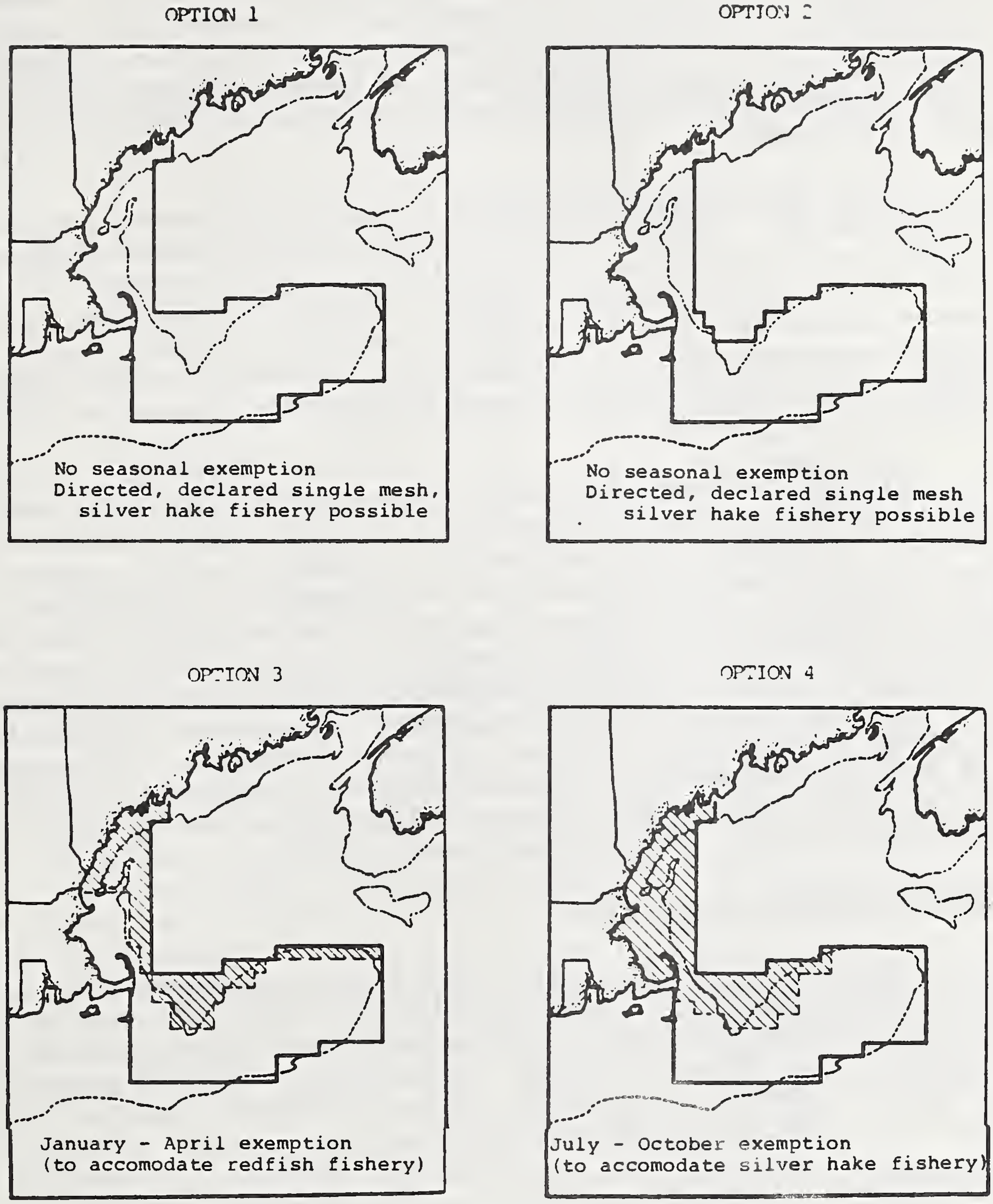
A brief report on the Interim Plan's development was given in September. It was noted that the last issue to be considered by the Groundfish Committee was trip limits. After long Committee debate the issue of trip limits had been tabled until evaluation of the workability of the area/ mesh scheme, final results of an ongoing study to evaluate potential catch levels under the Interim Plan were acquired, and New England and mid-Atlantic Fishermen's Associations were contacted to determine their ability and willingness to cooperate with Interim Plan strategies in order that Plan objectives could be met.

New fishing year

On October 1, 1980 the new fishing year began. Trip limits reverted to October 1, 1979 values for cod and haddock. Yellowtail limits were 1,500 lbs. per trip west of 69° and 5,000 lbs. per week or trip (whichever longer) east of 69°. Amendment #4 1979-1980 OY's still had not been implemented. Only with the good graces of the NMFS Regional Director was the Council not forced to operate with much reduced 1978-1979 OY's.

Interim Plan development continued in October. The Committee dealt with the mesh/area scheme and grappled with the issue of whether there should be seasonal exemptions to a large mesh area or a declared, directed fishery. Options for seasonal exemptions for use of small mesh nets in portions of the large mesh area were devised (Figure). Ways in which a fisherman could declare himself in a fishery for small-mesh species were considered.

Figure 4



OPTION 1

No seasonal exemption
Directed, declared single mesh, silver hake fishery possible

OPTION 2

No seasonal exemption
Directed, declared single mesh silver hake fishery possible

OPTION 3

January - April exemption
(to accomodate redfish fishery)

OPTION 4

July - October exemption
(to accomodate silver hake fishery)

Large mesh area options. Crosshatching indicates area exemptions for small mesh fisheries.

Nothing changes

At the December 3 and 4, 1980 Council meetings the Regional Director proposed a reduction in cod trip limits for 5Y and 5Z/6 to respond to overages of the previous fishing year's OY and increased fishing effort. He noted increasing problems with the haddock fishery but proposed no changes. A January implementation date was cited. Additionally, an approximate mid-December date for a yellowtail flounder trip limit increase west of 69° to 5,000 lbs. was announced.

Cod trip limit reductions were considered by some to be inequitable. Vessels greater than 125 GRT which were more expensive to run were taking the largest percent cut (20-25%) while other vessel types, notably fixed gear, with fewer expenses were to receive smaller percent cuts. Big boat interests were beginning to seriously attack the "inequity and hardships" caused them by the existing Groundfish Plan.

January 27 and 28, 1981 meetings again involved discussions on groundfish landings, particularly large first quarter overages for yellowtail flounder and by greater than 125 GRT vessels for cod and haddock. Regarding yellowtail, the flounder fishery east and west of 69° was projected to use its entire annual OY by the end of March. At this point, Jacob Dykstra expressed his growing concern over a lack of enforcement of yellowtail flounder regulations. Mr Dykstra pointed out that illegal landings were hurting the honest fishermen, and low prices indicated to him that there were substantial illegal landings. He noted nighttime landings, double offloading, and "midnight riders".

Canadian plans for 1981

Canada projected that its 1981 Groundfish Plan would allow catches of 192 MT for cod 5Y; 13,500 MT cod 5Z/6 (double figure proposed in the U.S./Canadian Treaty); 10,500 MT haddock 5; and, 2,500 MT yellowtail. In 1980 through November, Canada reportedly took 111 MT of cod 5Y; 6,394 MT cod 5Z/6, and 9,376 MT haddock 5.

Enforcement hardens

Due to President Reagan's 60-day freeze on new regulations, proposed cod trip limit reductions were not implemented in January. However, the Georges Bank spawning area closures were still to occur from March 1 through May 30 since that closure provision was already part of the Groundfish Plan.

Regarding the latter, its purpose was to minimize disturbance of spawning fish and to prevent exploitation of haddock when they were concentrated on spawning grounds. Of note, the Regional Director emphasized at the February 24 and 25, 1981 Council meetings that "We do intend to enforce these closures, and we will work with the Coast Guard. We were all embarrassed at the number of violations last year. We don't intend to tolerate it this year. Violations will be dealt with seriously." (Stevens, Commercial Fisheries News April 1981). The previous year the closed area was repeatedly violated reportedly by many Portuguese fishermen from New Bedford. The Regional Director indicated that first violations would result in gear seizure while second violations would result in vessel seizure.

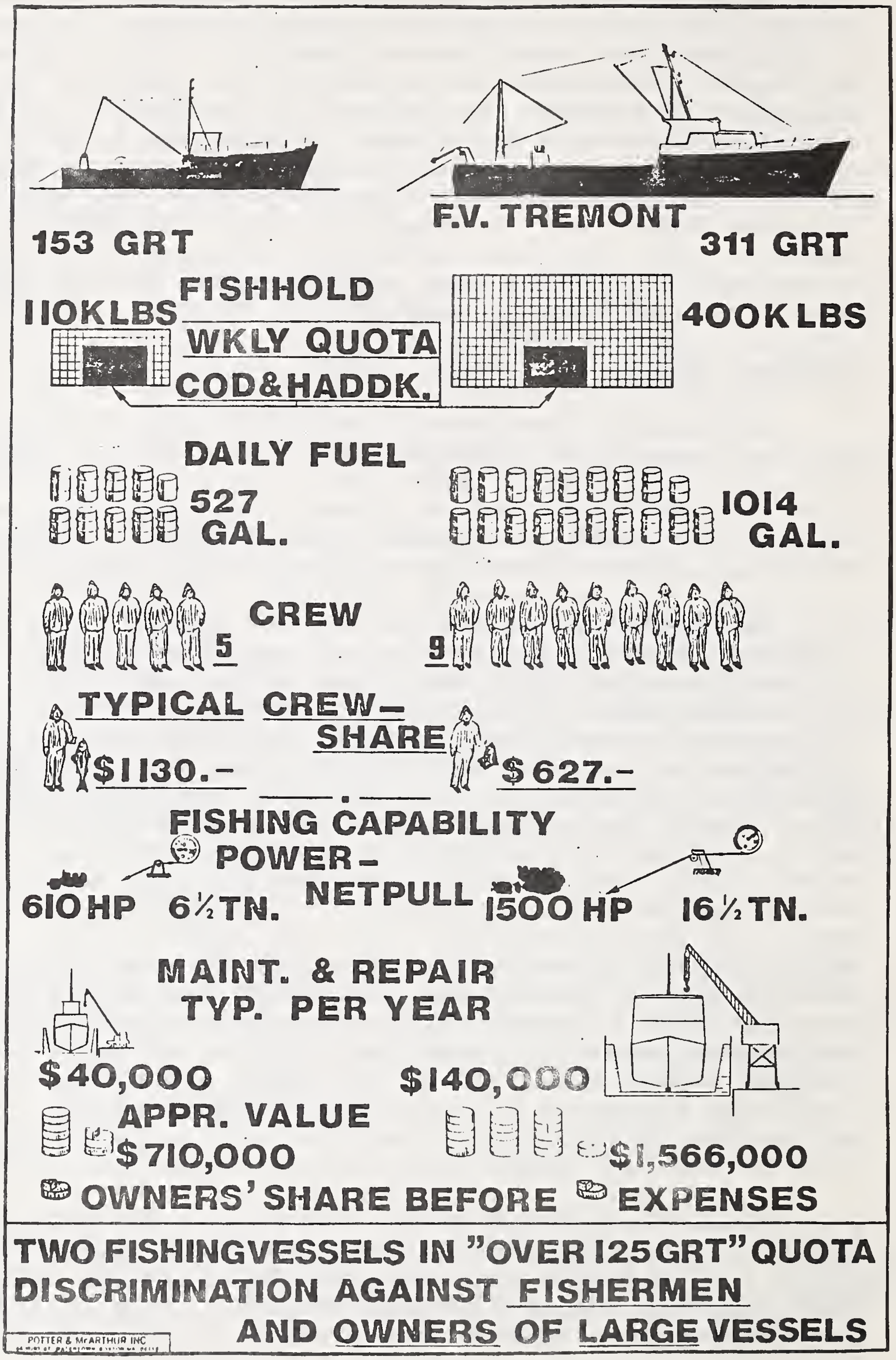
February 1981

At February meetings it was also learned that Amendment #5 which sought to increase OY for the fishing year 1980-1981, to establish a flexible OY, and to abolish the 69° line for yellowtail and no discard rule was returned to the Council for improvements and re-submission. Amendment #4 was still in Washington in the final rule-making process.

Additionally, owners of the Old Colony and McCormack Trawling, a Boston based fishing operation, asked the Council to provide relief from stringent catch limitations for their two greater than 300 GRT fishing vessels. These vessels represented two of the largest in New England and yet were subjected to the same trip limitations for cod, haddock, and yellowtail flounder as vessels which were approximately 126 GRT. Rising operating costs such as fuel oil and relatively small trip limitations were endangering their economic survival and preventing them from retaining an experienced, knowledgeable crew, according to the owners. For example, while the Tremont carried twice the number of men, and cost approximately three and a half times as much to repair and maintain, trip limits were identical, and most significant, this resulted in a crew share (based on these species) that was approximately one half the share of the crew on the smaller vessel (see Figure 5). There was no incentive for fishermen to remain on the larger vessels except in winter months when the safety and ability of the large vessel to fish in adverse weather were attractive.

While the request of the Old Colony and McCormack Trawling Corp. was justifiable, immediate relief was impossible. To increase the limit for vessels over 300 tons, a Plan Amendment would have been needed. Time delays with Amendments have already been noted. Also by allocating

Figure 5


153 GRT
F.V. TREMONT
311 GRT
110KLBS
FISHHOLD
400KLBS
WKLY QUOTA
COD&HADDK.
DAILY FUEL
527 GAL.
1014 GAL.
CREW
5
9
TYPICAL CREW-SHARE
$1130.-
$627.-
FISHING CAPABILITY
POWER-NETPULL
610HP
6½TN.
1500HP
16½TN.
MAINT. & REPAIR
TYP. PER YEAR
$40,000
$140,000
APPR. VALUE
$710,000
$1,566,000
OWNERS' SHARE BEFORE EXPENSES
TWO FISHINGVESSELS IN "OVER 125GRT" QUOTA
DISCRIMINATION AGAINST FISHERMEN
AND OWNERS OF LARGE VESSELS
POTTER & McARTHUR INC

more quota to larger vessels, smaller vessels would have had to lose a portion of their share, and a move to create another vessel class to accommodate greater than 300 GRT vessels could have delayed Amendment #5 and the Interim Plan, the latter effort being a "solution" to the larger vessels' problems. The Council was very sympathetic to those impacted by Plan inequities; however, short-term solutions were impossible.

Interim Plan development progressed in February. The Council voted not to have cod spawning area closures due to an inability to delineate discrete spawning areas. Also, it was decided that in lieu of seasonal exemptions to the large mesh area, an Optional Settlement Program would be established. The Regional Director was to provide details on how such a program could be implemented and enforced. Details of the program are described below.

March

Amendment #5 was not pursued by the Council Staff in March due to a need to complete the revised Sea Scallop Management Plan and to continue work on sea herring. On the status of the groundfish fishery, the west of 69° quota for yellowtail was projected as being already caught. Cod and haddock catches were well within quarterly allocations except for large vessels. Anticipation was building for the long-awaited Interim Plan, the details of which were to be presented at April meetings.

Tentative approval

At April 8 and 9, 1981 Council meetings, provisions of the Interim Plan (not the Plan itself) were approved to go to public hearings. The area/mesh management scheme, minimum fish sizes, spawning area closures and other provisions were approved. Consistent with the Committee's recommendations, trip limits were not included. However, to appease those Council members who still favored catch limitations of some kind, especially for yellowtail flounder, the Committee and then the Council decided to bring an alternative to no trip limits to the hearings for comment. That alternative was: 60,000 lbs. of groundfish (combined) with yellowtail not to exceed one-third of the total, to be increased by 5,000 lbs. per quarter until implementation of a 5 1/2" cod-end mesh size at which time the trip limits would be removed. Many argued that this alternative would only affect larger vessels thereby creating an inequity. It was also decided that the Committee would begin discussions on some sort of fail-safe mechanism to act as a "brake" in the event of a resource emergency.

Other aspects of the Interim Plan, besides trip limits, were still contentious. Some felt that only one mesh size should be allowed onboard in a large mesh area; otherwise, enforcement would be difficult. However, according to Council member Frank O'Hara, "I don't think there will be any problem enforcing it. What are you going to do with smaller fish if you can't sell them. There will not be any incentive to use small mesh when you're fishing groundfish. I think it is a good practical solution. Small mesh just makes more work for the crew for nothing if you can't sell them."

Allen Peterson emphasized that industry had to be made aware of the implications of the mesh size being considered (5 1/8" to 5 1/2" one year after Plan implementation) and the size limits which would create discards of premarketable fish. Note: According to one report on mesh selectivity (Pierce, 1980), utilizing results of the Council-commissioned selectivity trials (1977 - 1978), a 5 1/8" cod end mesh had an approximate 50% selection point at 15 1/2" for cod, 14 1/2" for haddock and 10" for yellowtail flounder. Meaning that for all three species of these sizes entering the 5 1/8" cod end, one half would escape while one half would be retained. To avoid this discard situation, either the allowable mesh needed to be increased to approximately 6" or the minimum fish size had to be decreased.

May 1981 meetings

At May 26 and 27, 1981 meetings, the Regional Director informed the Council that he did not intend to close the yellowtail fishery west of 69° even though the quota was greatly exceeded. He noted that during past yellowtail closures landings were higher than during times when there were no closures.

He also stated that NMFS recognized that existing OY's were not reflective of what the situation was with regard to stock size or with regard to what the Council was requesting in Amendment #5.

On another related issue, Mr. Peterson related that the Old Colony and McCormack Company had petitioned the Secretary of Commerce for emergency relief from existing groundfish regulations. It sought an additional vessel class for 300 GRT and greater with a quota twice the size of that for the existing 126 GRT and greater vessel class. It was requested that the increased allocation be an add-on and not a reduction from the shares of other vessel classes. The Council reaffirmed its position taken in February; i.e., the Interim Plan was the only solution to the problem of the

300 GRT and greater vessels.

Advisory subpanel

At June 30 and July 1, 1981 Council meetings, a report of the Groundfish Advisory Subpanel was given. This Subpanel was formed by the Council to provide for more organized advisor input. The Subpanel had been charged to review the Interim Plan management strategies and to make recommendations on the appropriateness of each one.

The most significant comment from the Subpanel pertained to the recreational fishery (rod and reel or handline). The Subpanel recommended that the minimum size be 15" for cod and haddock for recreational fishermen as opposed to 17" for commercial fishermen. This recommendation was accepted by the Council for consideration at public hearings which were to be scheduled to discuss the final form of the Interim Plan. Eight hearings were to be scheduled in New England and the Mid-Atlantic.

Public hearing results

July public hearings were summarized by Mr. Apollonio at July 28 and 29, 1981 Council meetings. According to Mr. Apollonio, the majority of comments received at the hearings supported the Interim Plan strategies. He stated that there was: 1) no serious opposition to the large mesh area or the 5 1/2" mesh size one year after Plan Implementation; 2) no substantial opposition to the minimum fish sizes except in New Bedford; 3) no opposition to closed area II, but there were suggestions to modify area I boundaries to prevent hardships for smaller vessels in the winter. A westward extension of area I had been originally proposed by the Council to encompass more areas where haddock were known to spawn; 4) opposition to the data collection system in New Bedford only. New Bedford representatives felt the system was unenforceable; 5) divided opinions on trip limits. Some ports were approximately 60:40 in favor of limits while at others the ratio was vice versa.

In a few instances written testimony was presented at the hearings. Testimony from James Costakes of the New Bedford Seafood Producers Association and Louis Fass of Fass Brothers is included here to illustrate the divergent views which existed on the Interim Plan. Mr. Fass, in particular, made impassioned pleas for the Council and other industry representatives to accept the Interim Plan and to implement it as soon as possible to alleviate economic woes (his especially) created by the existing Plan.

Mr. Apollonio also provided results and recommendations

TESTIMONY OF MR. JAMES COSTAKES
ON BEHALF OF SEAFOOD PRODUCERS ASSOCIATION OF NEW BEDFORD, INC.,
BOAT OWNERS UNITED, INC., AND TEAMSTERS UNION LOCAL NO. 59
JULY 21, 1981 BEFORE THE NEW ENGLAND FISHERIES MANAGEMENT COUNCIL
PUBLIC HEARING, NEW BEDFORD, MASSACHUSETTS

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to testify before the New England Fisheries Management Council tonight on the Interim Groundfish Fishery Management Plan. My testimony is supported by the two major boat owners' organizations in New Bedford -- the Seafood Producers Association of New Bedford, Inc. and Boat Owners United, Inc. -- which represent 150 boats in the Port of New Bedford. Our statement also has the endorsement of Teamsters Union Local No. 59, which represents 1,500 fishermen from Southeastern Massachusetts. Mr. Chairman, I will keep my comments brief because the proposal before us is simple, direct, and to the point, as it should be.

In general, our industry feels that the history of the Council's groundfish management plan dating back to March of 1977 is a mixed history, of benefit to the industry, but also of significant hardship. There is no question that after a long period of overfishing of many of these species by foreign fleets we have now been able to get a handle on our fishing resources and to stabilize what was becoming a very critical situation. In the broadest sense, I know that this interim groundfish management plan is an attempt by the Council to simplify the regulations which are imposed on our fishermen and to lift some of the more restrictive measures under which we have been living for many years. In this objective we wholeheartedly agree. It certainly will be a relief to all of us to have some clear direction on which we can count and upon which we can plan instead of constantly changing regulations which serve to confuse and frustrate those of us in the industry. However, having said that, I must hasten to add that some of the specifics of this particular proposal trouble many of us very deeply and I would like to enumerate for this Council the pros and cons of this plan as we see it and as it affects a major segment of your constituency.

First of all, we support the overall stated objectives of the plan. As those whose livelihood depends on a stable resource, we do not wish to act in any way which could jeopardize our ability to harvest on a sustained basis. Insofar as we possible can, we would like to prevent, as this plan characterizes it, "recruitment overfishing". Obviously, we understand full well that no management plan can guarantee spawning or eliminate recruitment failure, only minimize the ups and downs and prevent radical fluctuations in stock size. However, we are troubled, as the plan points out in its introduction, that the economic objectives and impacts have not been fully evaluated to date. Given the tremendous financial commitment to the fishing industry in the City of New Bedford, we feel we must proceed with extreme caution, particularly since the economic impacts have not been fully evaluated and since there is a significant difference between the way we have been operating for several years and the way we would harvest under the interim plan.

First of all, by and large we are presently using 5-1/8" mesh and would have no problem with the provisions requiring us to go to 5-1/2" after one year of implementation. However, we do not fully understand why or how the designated area was determined and the rationale for having a mesh restriction only in this area. But in general, we endorse the concept of a conservation measure in the area of mesh regulations. In addition, the concept of small mesh fishing as an "optional settlement" system makes sense to us.

Second, we can live with the minimum fish size requirements the plan outlines.

Third, we have always supported the spawning area closures but would like clarification from the Council on two points in this area before final regulations are implemented:

(1) Why the increase in the present spawning closure area?

(2) Why is there an exemption for hook gear in a closed area?

Fourth, the data reporting and collection system seems to us to be viable and, in fact, important and beneficial to conservation of these species.

Finally, I would like to get to the crux of the interim management plan and our problems with the concept that there should be totally open fishing with no trip limitations whatsoever. In general, we feel very strongly that this is too radical a departure too quickly from the present system of trip limits and quotas. We feel emphatically that such a radical change would do severe harm economically to our fishing industry and could negate some of the benefits to the stock which have occurred because of our sacrifices of the last several years. Given the choices before us, we endorse the interim step of a 60,000 pound limit, so that fishermen, boat owners, and seafood dealers can
WE LIKE TO ADD SOME TOLERANCE SHOULD BE CONSIDERED
adjust. We support the optional management measure but not the increase of 5,000 pounds every three months or the total lifting of limits after one year. Instead, we recommend giving the Regional Director with the concurrence of the Council the authority to adjust the limit rather than proceeding to a total abolition of any limit. We feel this is a wiser course of action since it will permit the additional harvesting of yellow tail flounder, cod, and haddock by the individual vessel and will allow our dealers to see if in an orderly way they can increase the market for these species and still maintain a reasonable price for fishermen. This is critical if we are to continue to make our livelihoods. Unfortunately, we in New Bedford experienced serious market disruption last summer when the price of cod and haddock plummeted because of an over supply of those species. This type of disruption that we experienc could be the forerunner of what will happen in other ports and throughou the region if we totally lift any trip limitations with the implementati of this plan. We in the harvesting sector from this port realize that we need dealers to sell our product and they need us to harvest the resource, and that these transactions must take place in a dependable, and orderly way. Based on our unfortunate experience of last summer, we are convinced that harvesting without any limits can be extremely disruptive both economically to us and for the conservation of the resource.

We urge this Council to consider very carefully the implications of your actions and to realize, as we know that you do, that there is a great deal at stake for the fishing industry. Finally, given the fact that the economic impacts of this Plan have not been thoroughly evaluated, the Council should proceed with caution and adopt the optional management measure with the changes we have suggested.

Thank you for your time and consideration.

Statement of Mr. Louie Fass
July 21, 1981
New Bedford, Mass.

I am appearing before this Council for the purpose of urging you to adopt and implement a plan for the management and conservation of the Atlantic Groundfish Fishery, which is similar to or in the nature of the plan which has been proposed by Spencer Apollonio, a representative on the Council from Maine, and the former executive director of this council.

The fish management plan now in effect for the Atlantic Groundfish is not realistic in its design and in its application. The original plan was hastily conceived in early 1977 and implemented in March, 1977. There have been three or four amendments but no significant change in the methods used to regulate the activity of the fishery.

The problems being caused by the present plan are greater than the accomplishment. The underlying reason for any plan is to conserve the natural resources while attempting to not harm the fishing industry, whether that be the individual doing the catching or the processing. The present plan does neither of these.

The present plan is persistent in maintaining the optimum yield as a specific quantity. In other words, this is "numerical fishing". The council has established a numerical fishing quota and then management becomes a task of keeping the fishing effort within this quota. Proof that this is not working is shown by the bi-weekly catch reports prepared by the Regional Director's office. As of May 31, 1981, the bi-weekly reports show overfishing west of 69° W by 129% of the yearly quota, and already the catches are 83% of the yearly quota east of 69° W. The fishing year does not end until September 30, 1981. The plan neither prevents overfishing nor provides a method to control rapidly changing developments.

The present plan encourages non-reporting or the making of erroneous reports. The data is not accurate and reliance on such data may look meaningful on paper but in reality it has no relationship to the actual situation in the ocean.

The better approach is to replace the present plan, which is not managing and is not conserving the fishery, with a plan such as the one proposed by Spencer Apollonio.

The real goal of any plan for Atlantic ground fish should be to enlarge the fishery by encouraging recruitment of fish and to protect the fish capable of reproducing so the fishery resource grows to the point that the fish available is equal to or exceeds the capacity of the industry to catch fish.

A plan based on an allowable net size accomplishes management and conservation while allowing the industry to economically fish and utilize the capacity of the fleet. The plan will also protect the reproduction stock by a selection of the proper net size, which will allow the reproductive stock to remain in the fishery.

The enforcement is made simpler. Undersize fish are easily seen at the processor and dealer level.

A plan which is based on what appears to be arbitrary numbers will always be suspected because fishery management is never an exact science. The determination of a mesh size ~~which~~ may or may not be coupled with a minimum length regulation. Such a plan would be more respected and the management of the fishery would become meaningful.

Scientists can determine the size of the fish which must remain in the ocean in order to propagate, thereby increasing the population of the fishery. If the size determination is correct or if the size is changed as new data is available, the plan will be respected and at the same time the conservation of the fishery will be achieved.

of a Committee meeting held to discuss the hearings and to make final decisions on the Interim Plan. The Committee recommended Council adoption of all provisions of the Interim Plan which were brought to public hearing except, surprisingly, it recommended the trip limit provision which had not originally been the preferred option of the Committee or Council. The Committee even went so far as to recommend that the Council reserve the option to continue trip limits subsequent to the first year of Plan Implementation. However, after Council debate it became apparent that the intent of the Committee on trip limits was not clear; therefore, the record was reviewed.

Review of Committee deliberations indicated that the final vote was for a "60,000 lbs. trip limit consisting of any combination of cod, haddock or yellowtail flounder except that yellowtail could not exceed one third of the trip limit, and at the end of one year the trip limit would be removed unless the Council took an explicit affirmative action for a period of time which the Council would decide." After extensive debate, particularly on inequity of the proposed limit for large vessels, the Council then decided on a vote of 14 versus 3 (Coates, Peterson and Michelson) not to have trip limits at all in the Interim Plan. After the vote, Mr. Apollonio commented that the Committee would continue to investigate alternatives to address concerns about resource removals; e.g., a fail-safe mechanism.

The only Plan provision which wasn't quite set was the Optional Settlement Agreement. The Council only voted to accept the concept of an optional settlement system to accommodate small mesh fisheries. Exact details of the Agreement were to be determined by the Committee during August and discussed at the next Council meetings.

July Council meetings concluded with a decision to have the "Chairman, Vice-Chairman, and Executive Director go to Washington and discuss with the people who made decisions what was required in the final FMP so that the Council staff could complete its work (knowing what was expected) as quickly as possible".

A letter from the Secretary

At August 25 and 26, 1981 Council meetings, Douglas Marshall reported that the Council had received a letter from the Secretary of Commerce urging the Council to submit the Interim Plan to him by October 1, 1980. That letter is shown below.

Mr. Marshall indicated that the Staff was proceeding

RECEIVED VIA RAPIFAX 7/29/81, 2:37 P.M.

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

JUL 29 1981

Mr. Robert A. Jones
Chairman, New England Fishery
Management Council
Suntaug Office Park
5 Broadway - Route 1
Saugus, Massachusetts 01906

Dear Mr. Jones:

On May 8, 1981, the McCormack Trawling Corporation and the Old Colony Trawling Corporation petitioned me for emergency relief under Section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The petitioners asked the Department to develop emergency regulations addressing alleged inequities and economic burdens of the vessel class allocation and catch limitations systems established by the Fishery Management Plan for Atlantic Groundfish (FMP). The records available to me indicate that the petitioners have a legitimate grievance about the constraints of the FMP on the profitable operation of their fishing vessels, the OLD COLONY and the TREMONT. I understand that the petitioners presented their case to the Council last February, and that the Council formally recognized the significant and differential effects of the current vessel class allocations on fishing vessels of various sizes.

I have decided to deny the petition. I believe that the present system of vessel classes and catch limits is unfair not just to petitioners' vessels, but to other vessels in the groundfish fishery. Granting the petitioners or other vessel owners emergency relief would require allocating fish from existing vessel classes to new ones. This cannot be done fairly or quickly, because a thorough review and updating of the entire vessel class and catch limit systems are necessary to ensure equitable allocations. Formulation of a management system that provides equitable fishing opportunities for different sized vessels or segments of the harvesting sector is the proper function of the Council, in keeping with the requirements of the Magnuson Act.

I am aware that the Council is developing the new Interim Plan for the Management of Atlantic Groundfish which will address the concerns of the petitioners and others who may be disadvantaged by the present management system. I do not believe that petitioners and similarly positioned vessel owners should have to operate under the present management system any longer than is necessary to implement an acceptable substitute. Accordingly, I request that the Council expedite the preparation of the new plan and submit it to the Department for review no later than October 1, 1981. Once the Department receives the plan, I will instruct my staff to expedite its review to the maximum extent permitted by law. I am advising the Acting Assistant Administrator for Fisheries and the National Marine Fisheries Service Regional Director to offer their assistance to the Council to help finish the plan, and to ensure timely review and implementation. If I can further assist the Council in its efforts to improve the fairness and effectiveness of our management system for Atlantic groundfish, please let me know.

Sincerely,

Malcolm Baldrige
Secretary of Commerce

as rapidly as possible and that a draft would be ready for Committee review before September meetings.

Not everyone was pleased with the Council Staff's preoccupation with the Groundfish Interim Plan. Some Council members and industry advisors wanted more progress on Amendment #5. Those who believed the Interim Plan would not be speedily implemented wanted Amendment #5 completed since this Amendment increased OY's further, particularly for yellowtail. It was felt that if the Interim Plan failed to get through the federal review process, the fisheries would be forced to operate with "outdated" Amendment #4 OY's. In response, Mr. Marshall explained, "If there are major delays in the Interim Plan then we will put Amendment #5 into the mill. There is nothing to be gained if Amendment #5 goes along at the same time as the Interim Plan."

Data collection and vessel identifiers

In August, the Council debated data collection which involved the issue of confidentiality. The focus of attention was the 3-tier system of data collection developed by the New England Fishery Task Force set up in May 1979. The 3-tier system, a voluntary system of data collection, involved 1) a continuation of the existing weigh-out slip system whereby dealers provide records of purchases (first tier); 2) a log book system onboard the vessels which would provide more detailed information about catch (e.g., duration and approximate location of tows) (second tier); and, 3) sea sampling involving observers on vessels to collect even more detailed data on fishing operations and catch (third tier). This 3-tier system did not call for vessel identifiers, and this missing information sparked a great deal of Council debate and a controversial vote.

Council Staff argued that the vessel identifiers were important for development of the Atlantic Demersal Finfish Plan, which was to hopefully follow the Interim Plan sometime in the future. The Staff stressed five points.

1) The vessel (the firm) is the basic unit of economic analyses in fisheries;

2) The vessel I.D. is necessary to count the number of vessels involved in a fishery, to determine exit-entry behavior. Attempting to maintain vessel counts without this I.D. would involve staggering data storage costs, imprecise counts, and ignorance of vessels changes;

3) The vessel I.D. is necessary to follow vessels in and out of various fisheries, and across years, to determine their switching behavior;

4) The I.D. is needed to identify control groups from the general fishery data file;

5) The vessel I.D. is necessary to determine catch and revenue dependencies by vessels.

The Staff's arguments were convincing for their point of view gained support of many Council members. One member, Robin Peters, made a motion to express four concerns which she felt the Council should express. Those concerns were;

1) Collection of socio-economic data for fishery management purposes should be part of NMFS's regular data collection function;

2) The Council is concerned that the Three Tier System as proposed may be inadequate because the following types of information will be difficult or impossible to ascertain: vessel participation in and dependence on specific fisheries, switching behavior, natural exit and entry patterns, effective effort of various types of gear, and so forth;

3) The Council is led to believe that maintenance of vessel identification in some format which does not jeopardize the characteristics of acceptability and confidentiality sought in the development of the Three Tier System may be possible. This possibility should be thoroughly explored for inclusion in the proposed System;

4) In light of #1 above, if NMFS decides to proceed with the Three Tier System as proposed, the Council requests that NMFS develop a parallel collection system to be included as part of NMFS's primary data collection function.

She also moved that "The Council develop a socio-economic data collection proposal integrating the separate recommendations of Council members, Council Staff and the Scientific and Statistical Committee".

Her first motion was withdrawn; the second motion passed. The first motion sparked a great deal of debate but too many people were dissatisfied with one or another of the concerns as expressed and sensing this, Ms. Peters withdrew her motion. However, by her motion, the Council was made to think especially about the need for vessel I.D.'s and eventually, at September meetings, decided to at least require vessel I.D.'s as part of the data collection system of the Interim Plan.

Optional settlement scheme

In August the Council began discussions on the Committee's proposed specifics for the Optional Settlement Scheme which was critical to the success of the Interim Plan. Nine Committee recommendations were discussed in depth. These were:

1) There will be a specific list of small mesh fisheries allowable in the large mesh area;

2) The Regional Director will determine which fisheries are on the list. The initial list will include:

   Silver Hake
   Redfish
   Squid
   Northern Shrimp
   Dogfish

   Other species such as Red Hake and Ocean Pout will be considered;

3) Entry into the Optional Settlement Program may be denied by the Regional Director on the basis of prior violations of groundfish regulations. The detailed basis for such denial will be established by the Regional Director;

4) A vessel declaring for the Optional Settlement Scheme will declare for the small mesh fishery (all of the species on the list at the time of declaration) and may catch and land any or all such species;

5) A vessel's authorization to fish under the Optional Settlement Scheme may be revoked for groundfish violations;

6) At least 50 percent of a participating vessel's total catch on any single trip must consist of any combination of the listed species;

7) Not more than 15 percent of a participating vessel's total catch for the entire declaration period may consist of the regulated species of groundfish. This bycatch percentage level will be established

by the regulations so that it may be changed promptly if experience indicates a need for such change;

8) Declaration for entry into the program must be followed by a 5-day waiting period to allow NMFS to process the declaration and participating vessels must remain in the program for at least two weeks before withdrawing from it. The NMFS will endeavor to shorten both these time frames as much as possible. A vessel may withdraw from the program and later declare again and re-enter the program;

9) The requirement to declare the area to be fished will refer only to a general area (such as Stellwagen or the Northern Edge). It was not indicated nor established whether a vessel may declare several areas over the program period.

The five-day waiting period to enter an Optional Settlement Agreement with a minimum two-week duration of the Agreement (Recommendation #8) was quickly criticized by some Council members who wanted a shorter waiting period (two days). One industry advisor and former Council member, Daniel Arnold, shared this view but wanted a shorter waiting period of 24 hours. He stated, "the entry and exit times will cause vessels to back away from small mesh fishery. A number of fishermen will look at this and say I can't do it and be legal. I would declare for the fishery because I see whiting. These nearshore fishermen need to get in and out quickly to follow the varying availability of the species. We will end up with more people fishing on the regulated species. Yet we have to work with Mr. Peterson to find an arrangement that will shorten the time to 24 hours."

After Allen Peterson assured the Council that NMFS would try to shorten the time frame, the Council approved the five-day waiting period and two-week duration. Hence, a fisherman wanting to enter into an Agreement would telephone NMFS and five days later (hopefully two if NMFS could shorten the administrative requirements) that fisherman could begin to use small mesh in the large mesh area. NMFS was the originator of the Optional Settlement idea for the Interim Plan, and NMFS felt obligated to make it work regardless of the potential administrative headaches arising from a need to keep track of every fisherman in the Agreement and to insure that those fishermen kept to the terms of that Agreement (i.e., examination of fishermen's log books indicating catch within prescribed percent entitlements of cod, haddock and yellowtail per settlement period).

Recommendation #2 was also questioned. Some Council members felt the list of small-mesh species was incomplete.

Red hake and butterfish were two suggested additions. The Regional Director and others cautioned the Council to use care in determining legitimate small-mesh species; i.e., those fisheries where small mesh was really necessary to catch the species soughtafter.

Other Council decisions were:

1) To amend recommendation #6 so that "at least 50% of a participating vessel's total catch on any trip during the declaration period must consist of any combination of the listed species (small-mesh species);

2) Not to deny entry of a fisherman into an Optional Settlement Program on the basis of prior violations of the existing Groundfish Plan. Many Council members disagreed with this vote. They felt that individuals with repeated, flagrant violations should be denied the Program, that the "slate should not be wiped clean".

Additionally, the Council noted its poor job in handling the issue of minimum gill net mesh in the large mesh area. Many people, including some fishermen, considered the existing 5 1/2" minimum size to be too small for the cod and haddock fisheries. The Council ended its August discussion without a clear indication of how gill nets would be handled in the Interim Plan.

August meetings' discussions on groundfish concluded with two announcements. First, when the Interim Plan was completely drafted, Council and NMFS Staff would travel to Washington to shorten the review period. Secondly, Amendment #4 was finally approved by Washington and implemented.

Rethinking and finalizing

September 29 and 30, 1981 Council meetings marked a return to several provisions of the Interim Plan; e.g., the Optional Settlement Program and vessel Identifiers, in order that the Interim Plan could be completed and readied for submission to Washington. The Staff prepared several sections of the Plan needing final Council approval and, additionally, three more NMFS concerns had to be addressed.

Regarding the Optional Settlement Program, the question of whether a fisherman with past Groundfish Plan violations should be denied access to the Program, was again raised. The issue was left with an understanding, or consensus, that "violations and convictions under the existing Plan would also be appropriately taken into consideration by the Regional Director in determining whether or not to allow entry into the Optional Settlement Program". This was a reversal of the Council position taken in August.

Again, the list of small mesh species was criticized. Barbara Stevenson, the Mid-Atlantic Council representative to the New England Council, objected to any list. She felt that the Interim Plan did not give anyone the authority to regulate pollock, flatfish, or any other species. She feared that a list would prevent the acquisition of good landings data--one of the Interim Plan's objectives--since fishermen in the Optional Settlement Program would be forced to falsify their log books. Others felt that fishermen would use the Program and log book falsification to their advantage. For example, a fisherman, feeling that small mesh was the "only" way flatfish and pollock could be caught without loss of marketable sizes, could enter the Optional Settlement Program (in order to fish in the large mesh area), fish for flatfish and pollock, and falsify his log books to indicate that his catch for his declaration period was greater than 50% whiting and redfish (small mesh species). In spite of these potential problems, the Council decided to keep the small mesh species list and even expanded it to include red hake, sea herring and mackerel. The Regional Director was also given the authority to expand the list further after Plan implementation if the need for expansion became evident.

With respect to vessel Identifiers, the Council Staff again presented its views on the need for some way to keep track of each vessel's catches. The name of the vessel was not needed for the Staff's purposes. Without cumulative catch data by vessel on a trip basis, the Staff felt:

1) It will be very difficult to get a real good picture of what is going on in the fishery so that we can define appropriate management objectives and management measures;

2) It will be very difficult to perform regulatory analyses as are increasingly required by Executive Order;

3) You will not be able to get a good handle on what the administrative costs of implementing a program might be;

4) In any computer file there are mistakes, and eliminating the vessel Identifier eliminates one tool that you have to match various files against each other to find out whether or not there are

mistakes in one of the files.

The crux of the problem was confidentiality. It was feared by many that unless fishermen could be absolutely assured that their catch data could never be accessed and traced back to them (as individuals), industry cooperation in providing accurate information would diminish and the integrity of catch data used to perform biological assessments would suffer. The Regional Office, Northeast Fisheries Center, and even the Statistical and Scientific Committee were in agreement that integrity of the landings data file was the first priority of the data system. NMFS in particular had worked long and hard with industry assistance to develop the Three-Tier System, and it did not want to see it jeopardized.

The Council finally decided on a vote of 9 to 5 that the Groundfish Interim Plan would require vessel Identifiers. With this vote, some Council members considered the Interim Plan fatally flawed.

Three concerns

The NMFS Regional Office raised three important concerns. First, it wanted in the Plan more emphasis on the benefits and implications of minimum fish sizes. Secondly, the Regional Office felt too much emphasis was on limitations of the existing Plan. Third, the Regional Office believed the Draft Plan needed a specific time limit. This latter concern was criticized by Mr. Apollonio who felt that no limit was needed. He did suggest, however, that "I think it is possible to incorporate in the Draft a paragraph or two committing the Council to identify and develop some kind of fail-safe mechanism that can be adopted if a serious resource problem developed during the time the Interim Plan is in effect". In response to Mr. Apollonio's suggestion, Jack Dunnigan of the Council Staff stated, "It is going to take attention, time and resources away from development of ADF. If you look at the basis two years ago that the Council decided to get into the Interim Plan, it was because there was so much time being spent fooling around with the management program to try to make it work better, that the Council wasn't able to get on with developing a long-term, comprehensive groundfish management program. I think if the Committee ends up spending a lot of time talking about a braking mechanism, or other species to include in the Optional Settlement or whatever, there is just that much time that is going to be taken away from going on to the real business. I hoped that we would be able to draft this as much as possible to indicate that the real action from here on out ought to be in developing ADF and that the Interim Plan pretty much should be left to run. If we keep talking about refinements to the Interim Plan, we are just going to be in the same ball of wax we were in two years ago."

Hallelujah

The Council decided to approve the Interim Plan and to forward it to the Secretary of Commerce (see forwarding letter and NMFS response). The decision to write this Plan was made in September of 1979. Two years later the final product evolved after more delays and problems than ever expected (at least by some people).

A braking mechanism

The issue of a fail-safe or braking mechanism resurfaced at October 20 and 21, 1981 Council meetings. The Regional Director restated NMFS's question about what the Council intended to do "to insure that we have a basically viable fishery in the Northeast especially if stock sizes begin to decline." Very spirited discussions ensued for major portions of both meeting days.

Unfortunately, NMFS's question could not be answered definitively. They only raised a series of other questions which also could not be answered. For example, as stated by Mr. Apollonio, "What is the nature of the problem? What rate of decline in abundance should concern us? If we decide we have a problem, at what point do we do something? If we decide we should do something, what is the mechanism?" Clearly, the Council was again coming up against a central principle of the FCMA--to conserve and manage the fishery resources off our coast to promote the domestic commercial and recreational fishery under sound conservation and management principles.

A time limit is imposed

At December 8 and 9, 1981 meetings, the Regional Director noted that the Interim Plan was undergoing a review at the Regional and Washington levels. To the chagrin of many, he stated,

> "We have raised several issues of concern with regard to how the plan meets or does not meet National Standards, many of which could be time-consuming and troublesome in implementing the Interim Plan. One issue that has caused the most difficulty has been how the Interim Plan satisfies National Standard #1. If the Secretary approves the Plan, what good faith could he find that the Plan does prevent overfishing while achieving on

NEW ENGLAND FISHERY MANAGEMENT COUNCIL
SUNTAUG OFFICE PARK, 5 BROADWAY (ROUTE 1)
SAUGUS, MASSACHUSETTS 01906
SAUGUS 617-231-0422 **FTS 8-223-3822**

November 2, 1981

Mr. William G. Gordon
Assistant Administrator for Fisheries, NOAA
National Marine Fisheries Service
3300 Whitehaven Street, N.W.
Washington, DC 20235

Dear Mr~~. Gordon~~: Bill

Enclosed for your review and approval under the Magnuson Fishery Conservation and Management Act is the Interim Fishery Management Plan for Atlantic Groundfish. Fifty additional copies are being sent under separate cover. The New England Fishery Management Council adopted this Plan on September 30, 1981. This responds to the Secretary's letter to the Council of July 29, 1981, wherein he requested expeditious preparation and forwarding of this document.

Bound with the Plan is a Draft Environmental Impact Statement and a Draft Regulatory Impact Review. The latter concludes that this is a "non-major" for purposes of Executive Order 12291. We assume that NMFS will complete processing of these documents as part of the Secretarial review procedure. We will be submitting draft proposed regulations shortly.

We would like to thank you and Allen Peterson for the fine cooperation and critical attention the Regional Office has given the Council in connection with the drafting of these documents. Although we have worked closely with the National Marine Fisheries Service in the development of this Plan, we have not had the opportunity to receive a preliminary formal review of this document from NMFS, NOAA or the Department. If, therefore, you find that there are problems with this document which could lead you to decide to disapprove it, we would appreciate these being brought to our attention promptly so that timely revisions may be made. If it would facilitate the review process, we would appreciate the opportunity to meet with your regional or headquarters staffs to discuss questions they may have about the Plan.

Sincerely,

New England Fishery Management Council
Jacob J. Dykstra

Doug

by: Douglas G. Marshall
Executive Director

JHD/sm

cc: Secretary of Commerce
Administrator, NOAA
Allen E. Peterson
John C. Bryson, P.E.
Council Members
SSC Members
Executive Directors Other Councils

#1 - 12/8/81

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Washington, D.C. 20235

F/CM6:DAH

NOV 25 1981

RECEIVED
NOV 25 1981
MANAGEMENT COUNC

Mr. Douglas G. Marshall
Executive Director, New England
Fishery Management Council
Suntaug Office Park
5 Broadway - Route 1
Saugus, Massachusetts 01961

Dear Doug,

This acknowledges receipt of your letter of November 2, 1981, and the associated document containing the "Interim Fishery Management Plan for Atlantic Groundfish" (the Plan), the draft environmental impact statement, and the draft regulatory impact review. I have been asked, also, to acknowledge your letters to the Secretary of Commerce and to the Administrator transmitting copies of the Plan.

The Secretarial review of the Plan began on November 12. We are conducting an expedited review and you should be notified as soon as possible. I note your request to be informed promptly of problems preventing approval, and I am requesting Regional Director Allen Peterson to work closely with the Council during the critical period of plan review. I will accept your offer to meet to discuss questions, if necessary.

If the Plan is approved, proposed regulations can be published as soon as we have prepared them and they have been approved by the Department of Commerce and the Office of Management and Budget. In that event, final regulations would likely be promulgated in the spring of 1982. ←

Thank you for expediting the completion and submission of the Plan in response to the Secretary's request.

Sincerely yours,

William G. Gordon
Assistant Administrator
for Fisheries

> a continuing basis the optimum yield for each fishery. Without going into a lot of detail of the narrative of the Interim Plan, there is serious question on the parts of many of the reviewers that the Plan is deficient in the areas of appropriately defining OY, and calculating whether or not the management measures shall prevent overfishing. A good part of this can probably be done by some rewriting of the Plan on the part of the Staff. Specific wording is not troublesome from the point of view of approval or disapproval. However, it is the considered opinion of NMFS that we could not recommend approval of the Plan the way it is. The deficiencies in the Plan are related to the aspect that it is an Interim Plan, and I think those deficiencies are fully recognized by the Council. We have talked about braking mechanisms. If the Secretary approves the Plan the way it is now, there is no definitive future for the Plan, and it can go on and on without any changes. How can we deal with that, keeping within the Council's concern that this be an Interim Plan. The answer is not readily forthcoming."

To deal with these problems, the Regional Director suggested a three-year time limit for the Interim Plan. With this limit he felt the Plan would alleviate reviewers' concerns over possible free, unlimited fishing which, in their opinions, the Interim Plan seemed to allow. The Council accepted the three-year limit "in the interest of accommodation and of going forward with the Plan". Of note, the Mid-Atlantic Council had suggested a two-year duration (see letter).

Approval granted

The Regional Director stated at January 26 and 27, 1982 meetings that the Assistant Administrator for Fisheries, William Gordon, and Dr. Byrne, Administrator of NOAA, had approved the Interim Plan; however, implementation would not be until mid-April. NMFS had originally intended to implement the Plan on an emergency basis, but, because a resource emergency could not be reasonably argued, an emergency action was ruled out on the advice of the NOAA General Counsel Office.

This announcement caused some Council members to argue that implementation during the winter would be the best time to begin the Plan for it would give industry an opportunity "to gear up" for expected increased landings--to expand their markets to distribute the fish soon after it was processed. These individuals urged emergency implementation. Council Chairman, Mr. Dykstra, noted,

> "The present schedule for implementation would cause a lot more economic dislocation than if it were implemented at the present time. The timing you are describing probably will arrive just at the time when the market is flooded and the fishermen are threatening to go on strike because the prices are so low."

Mr. Apollonio added,

> "There was an understanding that if the Council got the Plan to Washington in the fall, and if it was acceptable, NOAA would implement it as rapidly as they could. If that was the understanding back in the summer, then I don't understand why it has been found that it can't be done now, which is the best time of the year to do it. What has changed since that understanding last summer? What has come about to make it necessary to implement it at the worst time of the year?"

And, Mr. Peterson continued,

> "The Plan was formally submitted on the first of November. The projected schedule that NMFS and Dr. Byrne concurred with, moving as rapidly as we could, was March or April (Note: Gordon letter of November 23). In handling the Plan, we moved as rapidly as we could; and there was a lot of effort internally to go through with the Plan. I think the original understanding was that we would as rapidly as we could; and, as history shows, that has been accomplished. Even the decision-making process has been relatively quick, and it is within the original timeframe".

The Regional Director was correct in his view on Council-expressed intent regarding economics of the fishery. The Interim Plan stated,

> "Not enough is known about the interactions of the various fleet sectors with the domestic and international markets for fish to specify achievable objectives relating to the distribution of benefits from the fishery, nor to specify measures that are efficient and fair. This plan, therefore, does not contain an economic objective, reflecting the

#1 - 12/8/81

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

ROOM 2115 FEDERAL BUILDING
300 SOUTH NEW STREET
DOVER, DELAWARE 19901-6790

TELEPHONE: 302-674-2331

DAVID H. HART
Chairman
ELLIOT GOLDMAN
Vice Chairman

JOHN C. BRYSON, P.E.
Executive Director

20 November 1981

... AND REGIONAL ...
RECEIVED
NOV 23 1981
MANAGEMENT COUNCIL

The Honorable Malcolm Baldridge
Secretary of Commerce
Room 5128
14th & Constitution Avenues
Washington, DC 20235

ATTENTION: Dr. John V. Byrne
Administrator, NOAA

Dear Mr. Secretary:

The Mid-Atlantic Regional Fishery Management Council, at its regular meeting on November 19, 1981, directed the following letter and report be forwarded to you.

The Mid-Atlantic Council, in consultation with industry advisors, has reviewed the Interim Fishery Management Plan for Atlantic Groundfish prepared by the New England Council.

The attached Groundfish Committee Report outlines and discusses the items of concern to the Mid-Atlantic Council. In view of the concerns highlighted in this report, the Mid-Atlantic Fishery Management Council recommends:

1. Support of the Plan for a period not to exceed two (2) years.

2. MSY not be exceeded over an extended time.

3. Prior to Plan approval, contact should be made with Canada to assure them this Plan will not be detrimental to the stocks and that this is only an interim plan.

Thank you for your consideration of our views on the Plan.

Sincerely,

John C. Bryson

John C. Bryson

JCB/maz
Enclosure
cc: Mr. William G. Gordon
Mr. Allen E. Peterson, Jr.
New England Fishery Management Council

> judgement that for the time being, the optimal distribution of benefits within the fishery is achieved by natural economic forces operating within the industry."

The outcome of this long debate was a letter to be sent to the Secretary of Commerce to protest the mid-April implementation date and to urge emergency implementation (see letter).

Surprise

Surprisingly, on February 3 NMFS announced (see news release) a mid-year implementation date for the Groundfish Interim Plan - not mid-April. Hence, the Interim Plan was not to be implemented on an emergency basis in either winter or spring. This confusion over the implementation date piqued many Council members and confused the industry (see news article).

Fail-safe

At February 24 and 25, 1982 meetings the Council once again labored on development of a possible fail-safe mechanism. An excellent account of this meeting and its deliberations is provided by Stevens (Commercial Fisheries News, April 1982) and is excerpted below.

> "Taking the difficult first steps in developing a fail-safe mechanism for the Interim Groundfish Plan, occupied much of the New England Fishery Management Council's attention at its February 24-25 meeting.
>
> After lengthy and often complicated discussion, the Council agreed on two guidelines for further work on the set of emergency measures that would be implemented if the Interim Plan fails to adequately protect cod, haddock and yellowtail flounder stocks. Protect them from what - extinction or dropping to a level where fishermen can't make a living catching them - is an issue still to be clarified.
>
> The Council will develop a procedure for a fail-safe mechanism that will be implemented should the Interim Groundfish Plan fail to maintain minimum stock sizes necessary to reduce the risk of recruitment failure. And, in developing a fail-safe procedure, the Council will not address potential economic issues which may occur during periods of stock stability or increase, according to the two motions passed by the Council.
>
> Taking Council Chairman Jake Dykstra's advice to start at the beginning, Spencer Apollonio, Chairman of the Groundfish Oversight Committee, asked Council members a very familiar question: "What will the

NEW ENGLAND FISHERY MANAGEMENT COUNCIL
SUNTAUG OFFICE PARK, 5 BROADWAY (ROUTE 1)
SAUGUS, MASSACHUSETTS 01906
AUGUS 617-231-0422
FTS 8-223-3822

February 9, 1982

Dr. John V. Byrne
Administrator, NOAA
Department of Commerce
14th & Constitution Avenues
Washington, DC 20235

Dear Dr. Byrne:

The Council has been informed by the Regional Director that the Interim Fishery Management Plan for Atlantic Groundfish has been approved. We also understand that a decision was made that the Plan would not be implemented by emergency regulations. Although there was some initial confusion regarding a probable date for implementation through the "normal" process, we now understand from discussion with NMFS officials that it is not likely that the Plan will be in place before July or possibly August. The Council believes that such a long delay would be very unfortunate.

The preparation of the Plan involved more than two years of study, discussion and interaction with the industry both in Council and Committee meetings and in many public hearings. Certain provisions of the Plan were and are controversial, but through a thorough and open process, Council decisions were made and a course charted. Working with the NMFS Regional Office, the Council staff prepared the Plan and related documents. The Regional Office officials involved in handling and processing the FMP for the Secretarial review did an outstanding job in a very short time despite, in some cases, personal opinions and judgements that are substantially different from those reflected in the Plan. I commend those at the Regional Office for their thorough professionalism.

Now, after all that has transpired, we face the prospect of another half year delay that seems to serve no really useful purpose. Many people in industry, both harvesters and processors, are concerned (even though they favor lifting all quotas and trip limits) that there will be a brief and one-time impact on markets and prices for the three species involved. At present, landings are relatively low due to weather and other causes and any such impact, if in fact one occurs, would be less now than at any other time of year. Two or three months from now, matters would be potentially much worse and July or August at the peak of fishing activity with good weather and the years highest daily landings could be the worst possible timing for implementation.

Although the stocks are in relatively strong condition, we believe that the continuation of the same conditions that lead the Council to develop the Interim Plan, and the potential for some adverse impacts from a summer implementation date, clearly justify emergency implementation. Whether the apprehension about summer implementation is warranted or not is perhaps irrelevant. The perception of a problem clearly exists within the industry; and a large element in the success of any management program, as we have learned from experience, is the psychological atmosphere in which it is implemented. Furthermore, it has been shown historically that the anticipation of a problem in a market exacerbates the problem when it comes to pass.

As you are aware, emergency regulations have been implemented in the past on the basis of socio-economic considerations. I believe the Stone Crab FMP is one example. More relevant is the emergency amendment of the existing Groundfish FMP that was published in the Federal Register of November 9, 1977 (42 FR 3510), and the numerous uses of §305(e) in 1978 and 1979. Further, the NOAA General Counsel ruled very early in the implementation of FCMA that this was a legally appropriate use of §305(e). I would also call to your attention finding number eleven in the Oversight Report of the House Subcommittee on Fisheries and Wildlife Conservation and the Environment issued September 1, 1981: "An economic or social dislocation associated with various aspects of a fishery management plan can supply the basis for a fishery emergency and, therefore, an emergency amendment to a fishery management plan." Since the same rules in general apply to both plans and amendments, it seems clear that this finding supports emergency regulations to implement the plan.

I firmly believe that the fastest possible implementation of the Interim Plan is in the best interest of the Council, the Government and the industry, and that such speedy implementation will not offend anyone except possibly some whose paperwork prerogatives may be infringed but who have no real stake in the issue. I urge you in the strongest terms, on behalf of the Council, to reconsider the timing of Plan implementation and to put emergency regulations in place at the earliest possible moment.

Sincerely,

Douglas G Marshall

for: Jacob J. Dykstra
Chairman

NATIONAL MARINE FISHERIES SERVICE
NEWS
14 ELM STREET
GLOUCESTER, MASS. 01930

NORTHEAST REGION

FOR IMMEDIATE RELEASE

GROUNDFISH INTERIM PLAN APPROVED

February 3, 1982

A bold new plan to manage the catch of cod, haddock, and yellowtail flounder off the New England coast has been developed by the New England Fishery Management Council and approved by the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service.

"The New England Council has worked with the industry for more than two years in developing this Interim Fishery Management Plan for Atlantic Groundfish," said William Gordon, NOAA's Assistant Administrator for Fisheries. "They are to be commended for this dramatic new approach to fishery management."

Gordon said the proposed regulations to implement the plan include basic conservation measures of minimum net mesh size, minimum fish sizes, and voluntary catch reporting. "They are a far cry from the present plan which uses quotas, trip limits, and mandatory reporting requirements to control the catch," he said.

"Because of an increase in abundance of these fish stocks during the past few years, we are able to reduce the fishing regulations, " said Gordon. "The proposed regulations are designed to reduce the risk of catching the smaller fish, enhance fish spawning activity, and collect accurate catch data," he said.

The plan will be effective for three years. During the first two years the Council has agreed to define its long-term management goals for these species and determine if certain levels of stocks should be maintained and what measures will be needed to reach the levels. Any additional protection measures will be implemented during the third year of the plan.

The public may comment on the plan and the proposed regulations when they are published. Final regulations implementing the plan are expected to be in place by mid-year. The current plan and its regulations remain in force until that time. Each groundfisherman will be notified of the date when the industry can begin to fish under the Interim Plan.

Red tape is holding up federal open-fishing plan

STANDARD-TIMES
NEW BEDFORD, MA
D. 50,100

FEB 6 1982

By David H. Kogut
STANDARD-TIMES STAFF WRITER

NEW BEDFORD — The federal government's "open-fishing" plan — feared by fishermen, praised by processors — has been approved in Washington, but red tape may snarl its start for six months, a key U.S. official said yesterday.

The plan lifts most trip limits and quotas imposed on vessels seeking cod, haddock and yellowtail flounder in the North Atlantic. This removes key restrictions on the city's 100-dragger fleet's.

Spokesmen for fishermen and fishing vessel owners said yesterday they are glad for any delay and repeated unwavering opposition to the plan. One said yesterday he feared "disaster."

The city's seafood processors, however, buy fish at the city's daily auction and had heralded the new plan as a channel to increased supplies — helping them guarantee new and far-flung markets. The delay, a spokesman said, is "unfair" and "not in the best short-term or long-term interests of the entire industry."

Known officially as the "Interim Groundfish Management Plan," it has already cleared bureaucratic hurdles and been "accepted" in Washington, said Frank Grice, chief of the Fisheries Management Division of the National Marine Fisheries Service's northeast regional office in Gloucester.

Local federal officials, Grice said yesterday, had pushed for the proposal to become effective no later than this month as "emergency regulations." But the general counsel's office of the National Oceanic and Atmospheric Administration (NOAA), which oversees the fisheries service, balked, Grice said.

"We just felt the plan has been in process for two or three years now," Grice said, explaining why his agency pushed for the early go-ahead. "The industry certainly has been waiting for it."

NOAA's general counsel office countered that emergency powers should be used only when a resource is in immediate jeopardy, Grice said. The plan will now have to go through a series of 60-day and 45-day periods of asking for public comment. "Later this month," most likely, the plan will be published in The Federal Register.

Some changes may result in the regulations, Grice said. "That may depend on the extent of comments we receive."

The entire process, "we estimate, will take us until probably almost midyear," Grice said.

The "entire fishing industry had a right to expect introduction of the plan on or about Feb. 1," said Harvey B. Mickelson, the New Bedford attorney who represents most major seafood processors.

Preparations for increased landings of fish — timed to coincide with a peak season — "have gone down the chute," Mickelson said.

Lent begins Feb. 24, marking the "best distribution time for the year" for the fish industry, Mickelson said. The beneficial effects of "increased orders for domestic fish" — which could carry into summer and fall months — will be "blunted" because of the actions in Washington, Mickelson said.

The onset of warm weather also marks the beginning of the spawning season at sea. Fish tend to bunch up and landings increase, pushing prices down.

Fishermen fear a lifting of quotas would only increase the glut, pushing prices too low.

"I'm elated" at the delay, said James Costakes, executive officer of the Seafood Producers Association, the city's major vessel owners group. "I've been against (open fishing) since its inception. I felt a total open fishery is not the answer. There isn't enough market at the time for an open fishery."

Costakes holds out a possibility that the proposal may yet be shelved.

"The whole thing is a total disaster," not really mitigated by any delay, said Harry P. "Mickey" Swain, owner of the dragger Shamrock and president of Boat-owners

CAPE COD TIMES, WEDNESDAY, FEBRUARY 17, 1982

New groundfish plan hits troubled waters

By WILLIAM MILLS
Staff Writer

HYANNIS — If only the fish knew what the fishermen go through before they even set their nets.

The federal government is discarding an unpopular groundfish management plan in favor of another controversial plan expected to be carried out in April.

And local fishermen are still trying to figure it out.

Besides its complexity, the Interim Groundfish Management Plan, developed by the National Marine Fisheries Service, is expected to hit troubled waters for other reasons as well.

Several fishermen's groups, for instance, oppose the timing of the new regulations.

"This might cause a lot of economic dislocation if implemented in April rather than now," said Jake Dykstra, chairman of the New England Fishery Management Council. "Of all the times of the year, they (the fisheries service) have chosen the worst time to implement it."

He explained that mild weather and greater fish landings in the spring usually result in a glut and lower market prices.

And if the new plan, which allows fishermen to catch unlimited quantities of groundfish, takes effect in the spring, the market situation could be even worse.

Dykstra said if the plan were carried out this month, the industry would have time to adjust to new management measures before the spring crush began.

Supporters of the new plan believe the larger net mesh component of the plan will let immature groundfish escape and allow fish stocks to develop while still letting fishermen keep as much as they catch.

Opponents predict it will harm stocks through overfishing and the fishermen through lower fish prices when landings increase.

Also, some small boat owners fear that without trip limits and quotas, corporate fleets, which operate efficiently and are capable of landing tremendous amounts of fish, will be able to weather the low prices in a glut and force the smaller fishermen out of business.

The current groundfish plan, which will be withdrawn when the interim plan takes effect, has proved a cumbersome and ineffective way to manage cod, haddock and yellowtail flounder of New England and the Mid-Atlantic, according to the fisheries service.

Its primary tool, the quota system, limited the amount of fish that could be landed each year. But, even though one fishery could be closed when it met its quota, the species were still caught by fishermen pursuing other types of groundfish, since cod, haddock and yellowtail flounder were typically caught in various combinations.

To protect themselves from violating closures, fishermen threw the prohibited species (usually dead) overboard which the fisheries services says was not only a waste of effort and fish but a cover for the number of fish actually caught. When fishermen were forced to discard, harvests from the resource were actually higher than landing records show, and fishery managers were left without accurate data on which to base future management decisions, the service says.

The new regulations will eliminate the four-year-old trip limit and quota system.

The interim plan will last three years, while the fisheries service develops a permanent plan. In its second year, the plan will require boats fishing in the Gulf of Maine and Georges Bank to use larger mesh, 5½ inch nets. Groundfishermen may continue using their present 5⅛ inch mesh nets during the plan's first year.

Proponents and opponents agree the plan will probably result in a great increase in groundfish landings in New England.

The fishery management council projected groundfish catches of 109,000 metric tons in 1982 and 115,600 metric tons in 1983. The figures represent increases of 15 to 20 percent above the 90,060 metric tons of cod, haddock and flounder caught of New Engalnd in 1980.

To improve the effectiveness of the area and mesh scheme, minimum sizes for the regulated species will be 17 inches for cod and haddock caught commercially, 15 inches for cod and haddock caught in the recreational fishery (hook and line) and 11 inches for yellowtail flounder in both fisheries. The regulations are designed to reduce the risk of catching the smaller fish, enhance fish spawning and provide accurate catch data.

Another part of the new plan, called the optional settlement system, allows fishermen who pursue smaller fish with smaller nets to fish in the large mesh net areas.

The regional director of the fisheries service will establish a list of species typically harvested with small mesh, such as silver hake, redfish, squid, dogfish, Northern shrimp, mackerel, red hake and herring. Other species may be added later. Fishermen wishing to catch these species in the large-mesh areas should declare their intentions to the regional director and wait up to five days before fishing the area.

During the program period of probably six months or less, at least 50 percent of the total catch by weight must be species on the list, but no more than 15 percent can be a combination of cod, haddock and yellowtail flounder.

A captain can leave the program to fish the regulated groundfish, but he must give notice to the regional director.

Highlights of management plan

HYANNIS — The specific management measures of the new Interim Groundfish Management Plan include:

- Unlimited catch.
- Minimum mesh size for trawl net cod of 5⅛ inches the first year, and 5½ inches the following two years in a designated large mesh area. Gill nets must be 5½ inches.
- Minimum fish lengths of 17 inches for cod and haddock caught or bought commercially, 15 inches for cod and haddock caught by recreational fishermen, and 11 inches for yellowtail flounder.
- Spawning area closures (March, April, and May) are essentially the same as they were under the present management system.
- Permits for vessels are on a no-fee basis, the same as previously. Present groundfish permits continue to be valid.
- Collection of catch data is based upon a voluntary system now being put together by the Northeast Fisheries Center at Woods Hole.

fail-safe mechanism prevent - a decline in the stocks, a stock collapse or a stock "wipe out"?

After that is decided, it must be determined what the signal will be and where it will come from to indicate that it is time for implementation of the fail-safe, Apollonio continued. Finally, the Council must determine what measures the fail-safe must use to achieve their objectives.

A think-tank atmosphere surrounded much of the discussion as Council members tried to raise suggestions on how to broach the issue and Apollonio questioned their suggestions and urged them to focus on the most basic questions.

Whether economic or biological problems will trigger implementation of the mechanism was one question the Council moved closer to resolving when it voted not to address economic problems when the stocks were in good shape.

Further narrowing down of exactly when and how the Council will deal with problems brought on by the Interim Groundfish Plan will be attempted at future meetings.

But it doesn't look like it will be an easy task.

Jake Dykstra restated his position that, no matter how difficult it might be, the Council, may, at some point, have to make a judgmental decision that it won't allow the stocks to fall below a certain level. Then it will have to figure out how to handle the situation should the stocks get to that particular level and decide who will be asked to make the sacrifices.

"Some of us feel that there is nothing we could do that has a price tag we would want to pay. Others say that's foolish. We have to try to get beyond the notion that there's something we haven't found out yet that will spare us from having to pay a price," Dykstra said."

Enforcement

On February 28 NMFS made known its new policy regarding seizure of illegal fish (see news release). Shortly thereafter, NMFS with Coast Guard assistance seized and fined a New Bedford fishing vessel fishing in the Georges Bank closed area (March 1 - May 30) (see news article) and charged another New Bedford dragger with having more yellowtail flounder than

NATIONAL MARINE FISHERIES SERVICE
NEWS
14 ELM STREET
GLOUCESTER, MASS. 01930

NORTHEAST REGION

FOR IMMEDIATE RELEASE
28 February 1982

NEW POLICY ADDRESSES SEIZURE OF ILLEGAL FISH

Contact Marguerite Matera, Staff Attorney
Office of General Counsel (617/281-3600)
for more information

NOAA has revised its policy of seizing and seeking forfeiture of fish it believes were taken or retained in violation of the Magnuson Fishery Conservation and Management Act (MFCMA). The revised policy allows National Marine Fisheries Service's special agents to seize a vessel's entire catch if the vessel has committed previous violations of the MFCMA, or if the violation in question is especially serious (regardless of previous violation history), or if the violation in question involves multiple counts.

Effective enforcement of the MFCMA, and protection of fishery resources, requires this more severe response to flagrant and repeated violations. Therefore, this new policy makes clear that in cases involving serious violations of federal fishing regulations, NOAA will seize and seek forfeiture of a vessel's entire catch.

NOAA will consider seizure and forfeiture of the vessel in addition to its catch in serious cases where lesser penalties have not been, or would not be, successful deterrents.

* * * * * *

City dragger fined $33,177 for fishing in closed Georges Bank spawning site

By David H. Kogut
STANDARD-TIMES STAFF WRITER

NEW BEDFORD — Fishing in a closed Georges Bank spawning area cost the owner of the city dragger Lady Jay more than $33,000 but not ownership of the vessel, federal authorities said yesterday. The penalty may be the stiffest in more than 20 years of closed fish spawning areas.

Under a settlement signed last week, federal authorities returned the Lady Jay to its owner but kept $33,177 from the sale of fish it had when it was seized at sea March 1, said Marguerite Matera, staff counsel for the National Marine Fisheries Service in Gloucester.

Owner Antonio Pimentel of 64 Lucas St., New Bedford, could not be reached for comment yesterday. Neither could his attorney, David S. Barnet of New Bedford.

The 71-foot, 15-year-old dragger is believed by federal fisheries officials to be the first American boat seized on the East Coast for violating fisheries restrictions.

For about three months each spring, about a third of Georges Bank's 20,000 square miles is closed to fishermen.

The Lady Jay, with about 50,000 pounds of fish aboard, was seized by the New Bedford-based Coast Guard cutter Vigilant. Its catch was auctioned off on the Boston fish pier on March 2 and netted the $33,177, Ms. Matera said.

The boat was held in Boston in a U.S. marshal's custody until March 22, she said. Under the settlement with its owners, the Lady Jay admitted the facts of the government's case and forfeited the proceeds of the trip, she said.

The penalty may be the strongest imposed for "closed-area violations" in the more than 20 years fishermen have been barred from the selected areas of the bank during spawning season, Ms. Matera said.

According to Coast Guard records, the Lady Jay is owned by the Pitriz Fishing Co. of 48 Union St., New Bedford. The president of the company is identified as Pimentel.

allowed by state and federal regulations (see news article). Just previous to these actions a large fine of $100,000 had been levied against the Boston-based trawler, the Old Colony for alleged violations of cod and haddock regulations from June 1979 to November 1980 (see news article). To NMFS's credit it was adhering to its policy.

Task Force

Chairman Dykstra, at both February and March 30 and 31, 1982 Council meetings, summarized the Management Task Force - its structure, its purpose, and its conclusions. This was especially useful for Council members who had not been members during the early phases of the Task Force's activities. Mr. Dykstra presented his perspective and asked if the Council wished the Task Force to continue. In his opinion, the Task Force served a useful purpose, but did not achieve its full potential. The Council decided that the Task Force should continue and be treated "as a place for dialogue and investigation" of fishery management issues and solutions to management problems. The Task Force Report is included here.

Fail-Safe Discussed Again

At March meetings, Committee decisions on a means to determine a fail-safe mechanism were presented. The Committee had accepted a scheme, proposed by Dr. Brad Brown of the Northeast Fishery Center, whereby a panel of scientists would be utilized to characterize stock fisheries as either "safe, watch it, some concern, or going-to-hell-in-a-handbasket". This panel of scientists would look at current information on a regular basis and would provide advice concerning the risks the current condition of the stocks were presenting to the fishery. The Council's Groundfish Committee would make final decisions as to whether or not a braking mechanism would be implemented. The panel was to be utilized in the development of a braking mechanism as a first step towards the ADF Plan, and would provide advice concerning species other than just cod, haddock and yellowtail flounder. The panel would point out biological conditions that existed and what measures might alleviate any critical condition.

The Council accepted the Committee's recommendation. As stated by Chairman Dykstra, "We have to know when we are in trouble and what to do about it. It appears that the proposed panel has found an excellent way to determine that. What do we do when we are in trouble, is the next issue to be addressed."

Stan Chenoweth, Spencer Apollonio's representative, added, "We are on our way to answering the first question. The panel will come up with a range of conditions. The Council will have to determine when they want to draw the line."

Boat's catch exceeds limit by 10,000 lbs.; no narcotics found

By David H. Kogut

STANDARD-TIMES STAFF WRITER

NEW BEDFORD — Federal authorities are charging the fishing boat Shannon III, boarded at gunpoint at a city pier yesterday, with having 10,000 pounds more yellowtail flounder than state and federal regulations allow. Officials are holding a check for more than $4,000 until the investigation ends.

Early yesterday morning, armed Coast Guardsmen and federal fisheries agents boarded the Shannon III, an 83-foot fishing boat from Cape Cod, as it rode at anchor at New Bedford's pier 3.

The boat was suspected of carrying more yellowtail flounder than federal fisheries regulations allow, said Special Agent Stephen Alfieri of the National Marine Fisheries Service Law Enforcement Division. Bristol County District Attorney Ronald A. Pina said the vessel was boarded to search for narcotics. Pina said two state troopers from his office participated in the investigation. No narcotics were found, according to the Coast Guard.

The six-man boarding party, including Coast Guardsmen armed with shotguns and M-16 rifles, was given no resistance by the six crewmembers, Alfieri said. The fisheries service said "there had been a substantial landing of yellowtail flounder in excess of 10,000 pounds" more than the state and federal quota of 7,500 pounds, Alfieri said. Federal authories are holding a check for between $4,000 and $4,500, the "fair market value of the fish," until their probe is completed, he said. "The next step remains to be seen," and partly will be determined by the fisheries service regional general counsel in Gloucester, he said.

The Shannon III is owned by Kavanaugh Fisheries Inc. of 46 Union St.; its principal port is in Sandwich. It frequently sells its catch at the daily city fish auction and yesterday sold 28,000 pounds of fish to the Tichon Sea Food Corp., 7 Conway St. The boat was moored at the Tichon dock while authorities searched it as the fish was unloaded.

Kavanaugh officials could not be reached for comment. Pina could not be reached yesterday afternoon.

Coast Guard officials said the events leading to yesterday's search began early yesterday.

At about 1:30 a.m., a policeman patroling the Woods Hole section of Falmouth found two men sitting in what appeared to be a rental truck parked at the town dock, said Sgt. Arthur R. Gonsalves of the Falmouth Police. The men told the patrolman they were waiting for a fishing boat and were going to pick up fish, Gonsalves said.

"The officer was in the process of running a check (on their identification) when the boat did arrive and they started unloading yellowtail flounder," Gonsalves said. A policeman who is a former fisherman was summoned and he suspected the Shannon III had more yellowtail flounder than allowed, Gonsalves said.

The Shannon III, meanwhile, left Woods Hole and police thought it was headed for Martha's Vineyard. Then, police got a tip "relative to drugs aboard the vessel," Gonsalves said. "The Coast Guard dispatched a vessel (a 44-foot patrol boat) with myself, four officers and three of their officers," he said. It was about 4 a.m. as the crew searched Falmouth waters and the inner harbor at Vineyard Haven, he said.

About 6:30 yesterday morning, he said, the Shannon III was located in New Bedford by the Coast Guard. Federal officials said the crew offered no resistance.

Officials of the National Marine Fisheries Service recently have begun a crackdown on violations of federal fisheries law. On March 1, the Coast Guard cutter Vigilant, based in New Bedford, seized the dragger Lady Jay and claimed the New Bedford-ported boat had been fishing in a closed spawning area.

Attorneys in that case expect to confer soon, said Marguerite Matera, federal fisheries service attorney based in Gloucester, who is handling the Lady Jay case.

Old Colony fined $100,000 for landing limit violations

The Old Colony Trawling Corporation and associated respondents have been fined $100,000 for violations of the Magnuson Fishery Conservation and Management Act, according to an announcement by William G. Gordon, assistant administrator for fisheries of the National Oceanic and Atmospheric Administration (NOAA),

The civil fine was levied by Department of Commerce Administrative Law Judge Hugh J. Dolan, who found them guilty in five of the six alleged violations of the regulations implementing the management plan for cod, haddock and yellowtail flounder during the period from June 22, 1979, to November 4, 1980.

These violations were the subject of administrative hearings in Boston on June 9, 1981. All involved the landings of cod and/or haddock significantly in excess of legal limitations. In three of the violations where the overages exceeded 100% of the legal landing limitations, the maximum fine of $25,000 was assessed.

In his order imposing the civil penalty, Judge Dolan rejected the assertions that the overages were solely the acts of the individual masters. He stated that the corporate owners fully shared the responsibility for the activities of the vessel.

The Old Colony Trawling Corporation, which has several additional alleged violations awaiting civil penalty hearing proceedings, may appeal to NOAA's General Counsel, whose decision is the final administrative action. Other appeals may be taken to the courts.

Commercial Fisheries News - 2/82

Task Force Report

The Northeast Fishery Management Task Force Steering Committee met in Danvers to evaluate past Task Force results and to discuss how to define future needs for management studies.

We felt that the Task Force has served a useful purpose; it has produced a considerable amount of technical material and has promoted beneficial dialogue among Council members and staff, government representatives, and industry. As a result of Task Force activity, twenty-six (26) technical papers have been produced. Many of these have been distributed to the Council and all are available upon request. (See attached list of publications.)

We feel, however, that the Task Force has not achieved its full potential to serve as a medium for dialogue on problems common to the New England and Mid-Atlantic Fishery Management Councils as well as a place to deliberate issues that would be too complex to consider in the limited time within which Council meetings take place.

The Task Force needs the Council's guidance on how to modify the activities. The Steering Committee feels that the key to this modification is increased participation of Council members in defining the problems that they see as critical issues for Task Force deliberation. In addition, we feel that Council members should participate more fully in discussing the issues which they have defined.

Some of those issues might invoke for example:

-- Multiple species management north of Cape Hatteras.

-- Definition of fishery management units.

-- Alternative methods of management.

-- The use of models in fishery management.

We offer these as only suggestions because we would really like to obtain the views of Council members on issues that are critical to both Councils. We accordingly would like to assemble your views on the critical issues at the next Council meeting. Once the critical issues are defined, we would recommend that each be addressed by assigning an ad hoc group to study each issue. Groups would probably be in existence for not more than three or four months. We would assign an individual with whom we could be in close contact to serve as a project leader for each issue. The project leader would set dates, make sure that background documents are available (and possibly chair sessions of the ad hoc group). He would also be responsible for forwarding results of the group study for discussion by the respective councils.

We are hopeful that you will consider the issues that will be most useful for Task Force consideration.

DOCUMENTS PREPARED DURING PHASE II

1. *Aspects of a Management Information System.* By Richard C. Hennemuth. Distributed at 14 February 1980 meeting. 7 p.
2. *Management Alternatives and System Options.* By Richard C. Hennemuth. Outline of formats for analysis and comparison of alternative management schemes. Distributed at 20 March 1980 meeting. 3 p.
3. *Model of Finfish Industry.* By James D. Ackert and Leo C. Murphy, Jr. Diagram of industry components and links. Distributed at 3 April 1980 meeting.
4. *Fishing Industry System Model.* By Leo C. Murphy, Jr. May 1980. 7 p., 9 app.
5. *Background Material for Task Force Working Group.* By James E. Kirkley. June 1980. 5 p.
6. *Yield Function.* By Michael P. Sissenwine. June 1980. 6 p., 1 fig.
7. *Proposed Work Plan for Evaluating Alternative Forms of Management.* By James E. Kirkley. Working paper for group at 1-3 July 1980 meeting. 3 p.
8. *Statistics Collection in the Northeast Region.* By Ronnee L. Schultz. July 1980. 4 p., 3 figs., 1 app.
9. *Proposal for Reporting Fishery Statistics for Biological Assessments (Three-Tier Statistical System).* Result of 7 May Working Group. Distributed for 18 July 1980 meeting. 6 p.
10. *Analysis of Management Alternatives; Report on Preliminary Analysis - 18 July 1980.* By Richard C. Hennemuth. July 1980. 41 p., 1 fig., 1 table.
11. *Guidelines for Task Force Analysis of Management Alternatives.* Developed by Steering Committee, 17 November 1980. Questions for Biological and Economic Working Groups to answer. 2 p.
12. *Table of Biological Questions and Information.* By Biological Working Group. 9 December 1980.
13. *Toward Developing an Economic Theory of Production in Fisheries.* By James E. Kirkley. January 1981. 5 p.
14. *Socioeconomic Data Needed by Councils.* By Robin A. Peters and Barbara Stevenson. Distributed at 19 February 1981 meeting. 2 p.
15. *Socioeconomic Data Needs in Fishery Management Plans.* By Thomas E. Bigford. Socioeconomic data required by Washington. Distributed at 19 February 1981 meeting. 6 p., 3 tables.
16. *Implications of Fluctuations in Recruitment for Fishery Management. Preliminary Report to the Northeast Fishery Management Task Force Biological Effects Study Group.* By Bradford E. Brown and Joan E. Palmer. 1981. 3 p., 3 figs., 2 tables.
17. *Overview. Multispecies Aspects of Otter Trawl Catches off the Northeast Coast, USA.* By Michael P. Sissenwine. Distributed at 28 May 1981 meeting. 5 p., 3 tables.
18. *Species Similarity of Otter Trawl Catches Off the Northeast Coast of the United States.* (Fishery Units.) By Steven A. Murawski, Anne M. Lange, Ralph K. Mayo, Michael P. Sissenwine, and Bradford E. Brown. Distributed at 28 May 1981 meeting. 21 p., 4 figs., 8 tables.
19. *Fishery Trends Off the Northeastern Coast of the United States, 1964-1980.* By Anne M. Lange, Steven A. Murawski, Michael P. Sissenwine, Ralph K. Mayo, and Bradford E. Brown. Distributed at 28 May 1981 meeting. 27 p., 10 figs., 24 tables.
20. *Estimation of Discards in Mixed Trawl Fisheries Off the Northeast Coast of the United States, Based on Bottom Trawl Survey Catches.* By Ralph K. Mayo, Anne M. Lange, Steven A. Murawski, Michael P. Sissenwine, and Bradford E. Brown. Distributed at 28 May 1981 meeting. 12 p., 1 fig., 9 tables.
21. *Three-Tier Versus Current Fisheries Statistics System.* By Michael P. Sissenwine. August 1981. 2 p.
22. *Analysis of an Unregulated Fishery: A Proposal.* By Michael P. Sissenwine. Distributed at 11-12 August 1981 meeting. 5 p., 1 fig., 1 table.
23. *List of Economic and Sociological Factors.* By the Task Force. 11-12 August 1981 meeting. 5 p.
24. *Review of Questionnaire Responses.* By James E. Kirkley. Distributed at 3 December 1981 meeting. 6 p.
25. *Proposed Bionomic Simulator Model for [illegible] Otter Trawl Fishery, Version 4.* By James E. Kirkley. Distributed at 3 December 1981 meeting. 7 p., 3 figs., 1 table, 1 app.
26. *Northeast Fisheries Data Collection and Management System.* By Hoyt A. Wheeland, Louis Goodreau, Eugene G. Heyerdahl, Leo C. Murphy, Jr., Robin A. Peters, Barbara Stevenson, and James A. Wilson. February 1982. 16 p., 6 app.

Implementation!!!

At these March meetings it was announced that the Interim Plan was to be implemented at midnight March 31 by emergency regulations. The Council and all holders of Federal Atlantic Groundfish fishing permits had been advised of this development by way of March 25 announcement (see letter, news release, and April 21 clarification).

Apparently the Secretary of Commerce had been convinced that a mid-year implementation date was not appropriate. One possible influence on the Secretary's decision might have been a meeting between himself, John Byrne, William Gordon, Irving Margulis, Francis Byrnes, Thomas Norris, Ronald Nanfelt, and Lois Fass, during which the latter four reportedly (see newspaper article) related the "disaster" caused by the quota system; i.e., high fish prices to the consumer, shortage of fish product for sale by dealers, high industry unemployment, and minimum or no profits for dealers. Another influence might have been Congressional concern for a speedy, emergency implementation (see Jones letter) and other industry requests (see Fritschie letter).

Whatever the driving influence, the Plan was in place for 45 days on an emergency basis (with a likely additional 45 day extension) during which time, "the fishery would be monitored to see how well the Plan was working".

End - Chapter one

Demersals - 3/30/82

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Federal Building, 14 Elm Street
Gloucester, Massachusetts 01930-3799

March 25, 1982

NER72:PDC

NEW ENGLAND REGIONAL FISHERY MANAGEMENT COUNCIL
RECEIVED
MAR 26 1982

MEMORANDUM FOR ALL HOLDERS
OF FEDERAL FISHERIES PERMITS
FOR ATLANTIC GROUNDFISH

Dear Permit Holder:

The Interim Management Plan for Atlantic Groundfish which regulates cod, haddock, and yellowtail flounder, will go into effect on March 31, 1982. This early date is due to the fact that the Secretary of Commerce has implemented the plan by emergency regulations. This allows two important things to happen: First, you may begin fishing under the plan immediately for a period of up to 90 days, while public review of the plan and final regulations are ongoing. Any other approach would have held up fishing under the plan for several months. Second, it provides for a period of time in which the Secretary of Commerce can monitor the fishery to determine how the plan is working, before the regulations are made permanent.

The Interim Plan has minimum mesh size, minimum fish size and voluntary catch reporting as its foundation, and does away with yearly and quarterly quotas, vessel class quotas and the fishing trip catch limits of the current plan. Therefore, the Interim Plan is a significantly less restrictive management program.

Because groundfish stocks have increased over the past few years, we now have an opportunity to ease restrictions. The New England Fishery Management Council hopes that this approach will boost public support for management and create an environment in which the Council can address long-term goals for managing groundfish. The Interim Plan's basic goals are to: (1) reduce the risk of recruitment overfishing, (2) enhance fish spawning activity, and (3) collect accurate catch data. The specific management measures are:

1. Optimum Yield: The OY will be the amount of fish actually harvested by U.S. fishermen in accordance with the measures listed below:

2. Minimum Mesh Size Within a Large Mesh Area: The large mesh area includes shoreward portions of the Gulf of Maine west of Penobscot Bay, and Georges Bank. This area is defined in the regulations and is shown on the enclosed chartlet. It encompasses an area where approximately 90 percent of the cod, haddock, and yellowtail flounder catch takes place. All vessels using otter trawls, pair trawls, beam trawls, Scottish seines, and mid-water trawls must use cod ends measuring at least 5-1/8 inches during the first year of plan implementation, and 5-1/2 thereafter. The Regional Director may expand the types of gear subject to this regulation, if he finds that other gear is taking significant amounts of groundfish. The minimum mesh size for gill nets is 5-1/2 stretch mesh immediately.

3. Minimum Fish Length: The minimum length allowed is 17 inches (longest possible length) for cod and haddock caught commercially; 15 inches for cod and haddock caught recreationally; 11 inches for yellowtail flounder. These minimum lengths apply to any cod, haddock, or yellowtail flounder, regardless of where caught.

4. Optional Settlement Program: This provides for an exception to the mesh restrictions above, and allows vessels to fish for small mesh species in the large mesh area. While in the program, a vessel's total catch of cod, haddock, and yellowtail flounder may not exceed 15% by weight of its total catch, and 50% of the catch by weight must be comprised of fish on the small mesh species list which will be maintained by the Regional Director. The percentages are determined for a period of up to six months, which will be declared chosen by the vessel captain. The list initially will include redfish, silver hake, red hake, squid, Atlantic herring, mackerel, northern shrimp, and dogfish. The Regional Director may add species to the list, if he finds that small-mesh gear is necessary for taking that species and that it will not result in significant harvests of cod, haddock, or yellowtail flounder.

To participate in the Optional Settlement Program, you must call (Tel. No. 617/281-4454) and give your name, vessel ID number, federal fisheries permit number, the species you will fish for, and the length of time you will be in the program. This period can be as short as 30 days, or for up to 6 months.

5. Spawning Area Closures: Traditional haddock spawning area closures during March, April and May are maintained, with a slight modification to Area I as defined in the regulations, and shown on the enclosed chartlet.

6. Permits: Permits for vessels are required on a no-fee basis, the same as with the previous management plan. Present groundfish vessel permits continue to be valid.

7. Data Collection: The plan adopts a voluntary system of data collection presently being implemented by the Northeast Fisheries Center, Woods Hole, MA. You will be contacted regarding participation in this system in the near future.

8. Time Frame: The plan will last for a period of three years. During this time, the Council will develop and implement a mechanism that addresses the possibility of overfishing.

If you have any questions, please contact Peter Colosi at 617/281-3600 Ext. 272.

Allen E. Peterson, Jr.
Regional Director

Enclosure

NATIONAL MARINE FISHERIES SERVICE NEWS
14 ELM STREET
GLOUCESTER, MASS. 01930

NORTHEAST REGION

FOR IMMEDIATE RELEASE
March 25, 1982

New Plan for Managing
New England Groundfish
Effective March 31, 1982

A new plan to manage the cod, haddock and yellowtail flounder fishery off the New England coast has been developed by the New England Fishery Management Council and approved by the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service. It will be implemented by emergency regulations effective March 31, 1982.

"The New England Council has worked with the industry for more than two years in developing this Interim Fishery Management Plan for Atlantic Groundfish," said William G. Gordon, NOAA's Assistant Administrator for Fisheries. "The result is a new approach to groundfish management." Gordon said the regulations for the plan include the basic management measures of minimum mesh size, minimum fish length and voluntary catch reporting. The goal, according to Gordon, is to reduce the catching of small fish, enhance fish spawning, and collect accurate catch data. These goals are a major change from the present plan which uses quotas, trip limits, and mandatory reporting requirements to control catch. "We are able to relax the fishing regulations," Gordon said, "because of an increase in abundance of these fish stocks."

The plan will be effective for three years. During the first two years the Council has agreed to define its long-term management goals for these species and determine if certain levels of stocks should be maintained and what measures will be needed to reach those levels. Any additional protection measures will be implemented during the third year of the plan.

When asked when the fleet can actually begin to fish under the new plan, Gordon responded, "On March 31, but this was not an easy date to arrive at. This new management approach requires NMFS to notify the public for its reaction to the plan and to process final regulations. The proposed regulation process could have kept the industry under the existing quotas until mid-summer. But after careful consideration of the record, the Secretary of Commerce has made the decision to implement the plan now, so that the industry can begin receiving its benefits."

The plan will begin on March 31 under emergency regulations for the next 90 days. During the first 45 days the public will be able to comment on the proposed regulations. The Secretary also will use the emergency period to monitor the fishery and see how well the plan is working. The final regulations should be in force by mid-year.

NATIONAL MARINE FISHERIES SERVICE
NEWS
14 ELM STREET
GLOUCESTER, MASS. 01930

NORTHEAST REGION

FOR IMMEDIATE RELEASE

Minimum Fish Size Restrictions
under the Interim Plan

April 21, 1982

TO: ALL FISHERMEN, FISH DEALERS, FISH PROCESSORS, and any and all persons involved in the commercial catching, landing or sale of cod, haddock, or yellowtail flounder

The Interim Plan for Atlantic Groundfish became effective on March 31, 1982. All rules and regulations issued under it also became effective on March 31, 1982.

Be advised that under this plan, IT IS UNLAWFUL TO POSSESS COD OR HADDOCK OF A TOTAL LENGTH LESS THAN SEVENTEEN INCHES, AND YELLOWTAIL FLOUNDER OF A TOTAL LENGTH LESS THAN ELEVEN INCHES. This possession prohibition applies to, but is not limited to, fishermen, processors, dealers and brokers who are involved in the commercial groundfish industry.

It is illegal to possess such fish regardless of where they are caught, whether the fish come in by US vessel, or are imported by vessel or other conveyance from any other nation.

Any person found to be in violation of the regulations which govern the Interim Groundfish Plan will be subject to the civil and criminal penalty provisions of the Magnuson Fishery Conservation and Management Act, and any other applicable law, including the seizure and subsequent forfeiture of all illegal fish and possibly of the offending vessel.

For further information call (617) 281-3600, Richard Whittaker.

Lifting of Georges Bank quota seen

By William P. Coughlin
Globe Staff

Georges Bank, located off Cape Cod and considered the richest resource of fish in the world, is expected to be reopened as an open fishery in mid-April with the lifting of all vessel-by-vessel catch limits on American trawlers, seiners and draggers.

The decision to end the strictly enforced catch quotas, imposed in 1977 as a means of preserving the then nearly depleted groundfish stocks of codfish, haddock and yellowtail flounder, came last Tuesday at a meeting in Washington at which Secretary of Commerce Malcolm Baldrige and federal fisheries officials were told by fish dealers from Boston, New Bedford and Virginia of the "disaster" their businesses had suffered in the past two years because boats could not bring in enough fish to meet operating costs and consumer demands.

When the quota restrictions are lifted, it is expected to have a favorable consumer effect because there should be large supplies of fish and this would send prices down. This past week some fish dealers were getting as much as $4.25 per pound for haddock, fish that earlier this winter was selling for about $1.70 per pound.

The impending lifting of the quota system was confirmed in a telephone interview yesterday with William Gordon, director of the National Marine Fisheries Service, who was at the meeting. He said Secretary Baldrige "wants it done under emergency provisions of the law."

He said "procedural things have to be done, and the secretary is obliged to inform the Canadians of the change" which will be done at a meeting in Washington Tuesday.

He said "procedural things have to be done, and the secretary is obliged to inform the Canadians of the change" which will be done at a meeting in Washington Tuesday.

He said he expected the lifting of quotas to be a fact "in a few weeks."

The "disaster," said Francis Byrnes, a Boston dealer who is president of the Boston Fisheries Assn., is the result of the quota system, which he and other dealers blame for the sky-high prices – the highest in memory – a shortage of fish product (landings), high industry unemployment and "minimum or no profits."

"I operated at a loss for 1981. I can't do that for very long," Byrnes said.

The action, which had been recommended by the New England Fisheries Management council and had been originally expected to occur later in the year, is expected to affect in varying degrees the whole industry: fishing methods, vessel sizes, fish supply and demand, landings, profits and wages for both ships, captains and crewmen as well as dealers and processors, consumer prices for fresh fish throughout the nation, and the Georges Bank stocks which some captains insisted this past week are still being overfished by the Canadians and still are dwindling.

"The secretary promised immediate action," Byrnes said.

Attending the meeting with Baldrige, Byrnes and Gordon, were Thomas Norris of ther Boston Fisheries Assn., Ronald Nanfelt of the Coastal Fisheries of New Bedford and Louis Fass of Hampton, Va., a large South Atlantic processing house, as well as John Byrne, administrator of the National Oceanic and Atmospheric Administration and Irving Margulis, general counsel for the Department of Commerce. No representatives from the vessels, captains or crewmen were reported present.

Replacing the quotas will be a so-called interim or open fishing plan which would be operated for up to three years, during which every vessel will be allowed to take all the fish it can hold, with the only requirement being that a larger cod-end net mesh size be used. Instead of the current 4½- to 4¾-inch mesh opening, nets must have a mesh opening of 5½ to 5¾ inches. This, in theory, according to Byrnes, will allow any fish under 17 inches long to escape.

Thus for the first time in years, the American fleet would revert to fishing for quantity, or poundage, in the Georges Bank area alone, unchallenged by the massive foreign fleets of the middle 1970s, but still heavily pressed by the competition of the large Canadian trawler fleet.

This situation would exist because under of the terms of a still hotly disputed US-Canadian fishing treaty ..American vessels are not allowed to fish any of the 15 other fich fishing grounds east of Georges, while the Canadians can fish all areas, including Georges Bank, without quota restrictions.

In presenting their arguments for quota relaxation to the federal officials, Byrnes and Norris cited the sharply decreased fish landings, the increased dollar value of their product and sagging employment among cutters and handlers at Boston, Gloucester and New Bedford.

In Boston, for example, they noted that total landings in 1981 were down 5,458,650 pounds from 1980 while the dollar value of the product, reflecting supply and demand, still hovered at nearly $12 million where it had peaked at $12.7 million in 1980.

Unemployment figures at Boston were even more stark: From a high of 570 cutters on the job in 1978, only 362 were on the Fish Pier in 1981. But, Byrne said, 10 to 20 percent unemployment figures were presented for Gloucester and New Bedford.

Further illustration of the problem facing the industry, and the consumer, were figures from the reports of landings and sales at three Massachusetts ports this week, particularly Wednesday, March 17. At Gloucester, five boats boats landed a total catch of 91,400 pounds of mixed groundfish. Of that total, only 4000 pounds was haddock. The "off the boat" price for haddock at the pier that day ranged from $1.27 at Boston, to $1 for the same species at New Bedford. These prices must be multiplied by a factor of between three and four times when the fish fillets reach the consumer – thus between $3 and $4.25 a pound. The reason for that is that between the boat and the consumer is the boat unloaders, the brokers, the filet house and the delivery man, all of which must get a cost share.

At the Boston Fish Exchange whose daily auction is considered the bellwether for setting the price at all three ports, president Robert Dunn said, "Look at the board [the landings and sales]. We're losing money, to be honest with you." Total poundage, he noted, for January and February is down 1,334,743 from 1980 to 1981 while the average price (for all species) paid at the boat went up in the same period from 47 cents to 57 cents a pound.

Dunn as well as Byrnes and another dealer, Frank Shinney of the A.F. Rich Co., were all quick to point out that a major factor reflected in these statistics was some of the worst winter weather ever on Georges Bank. Dunn said 90 percent of the problem was because of bad weather. Shinney said the landings were the "poorest in 20 years."

Shinney would not characterize 1981 as a disaster – "I'll say we survived" – and added that when open fishing starts again, the beneficiary will be the consumer. "It'll do what we all want to do – lower the prices."

Adding to the problem is the legal closing of the known spawning grounds for haddock from March 1 through May, thus further confining the American fleet to a tiny wedge-shaped space of ocean just east of Highland Light off Cape Cod. This problem was accented Thursday at the Fish Pier when the combined efforts of three large trawlers, the Linda, the Anna Maria and the ancient Wave together could land only 700 pounds of haddock, where normally vessels of this class could be expected to land between 20,000 and 25,000 pounds each. On that day, the haddock brought the fishermen $1 a pound. Recently, however, prices at the boat have reached an all time $1.50 a pound.

Another unseen factor in the daily price is the arrival of more than a dozen Canadian trailers with fresh whole fish for the American market.

How the lifting of quotas will affect all phases of the industy is uncertain, but one veteran skipper, William Hallsen of Weymouth, said he expected a lot of smaller vessels to be put out of business. "You'll need a big vessel now to go after the poundage," he said. He added that "90 percent of the captains have adjusted to the quotas now, and don't want to see them lifted."

This was concurred in by another boat captain and owner of two 86-footers, James Bramante of Medford. He and Hallsen cited the Canadian fish as a problem, but Bramante said, the dealers also play one against another."

"They [the Canadian truck operators] go to the dealers even before the fish auction starts and quote a price, say haddock at 55 cents. Then the dealers go over to the boats and see that they've got haddock, and they go back to the trucks and quote an even lower price. The effect is to drive the price down at the boats," Bramante said.

Another skipper, recalling his experiences of past years, said that when the volume fishing comes back, he feared that these same dealers will "walk away" from vessels when they get enough to supply their markets, leaving unsold thousands of pounds of fisah in the vessels holds.

1982 The Standard-Times

'Open fishing' begins; lower prices expected

By David H. Kogut
STANDARD-TIMES STAFF WRITER

For the first time in the five years since the 200-mile fishing limit became law, the quotas and trip limits on cod, haddock and yellowtail flounder were gone this morning.

They had been a bane to an ancient industry built on unfettered self-reliance.

The impact of the arrival of "open fishing" was not immediately apparent, with only four or five draggers steaming in for the daily fish auction and a local National Marine Fisheries Service advisory that vessels at sea had to obey the former regulations until 12:01 this morning.

The new regulations—setting limits only on the size of fish and on mesh used to net them—have been boosted by fish processors generally and feared by fishermen. Processors have said that an increased, guaranteed supply will enable them to open up new and distant markets for fresh seafood. Fishermen worry that increased landings will glut the markets, driving prices down.

The new regulations, known officially as the "Interim Groundfish Management Plan" will provide more stable markets, said Robert Usen, president of Capeway Seafoods. Just this week, he said, a major supermarket chain told him it had avoided selling flatfish because "one week we have it, one week we don't."

Open fishing will "hurt temporarily for the fishermen until we gear up," Usen said. "But we have to have the product to make the investment in the equipment to process it." Processors realize the fisherman has to get a price" to keep operating. Wider markets will mean good prices and "should make for shorter trips and better quality fish," he said.

"We'll have to see, in about a week or two," said Leif Jacobsen, owner of the 99-foot Valkyrie and the 87-foot Gen. Patton, both draggers. More fish may come in, he said, but not much more. "They're catching all they could, even with the limit," he said. If twice as much fish as previously begins to be landed, "I don't think the price will go down (by half)," he said adding "I hope I'm right."

One advantage for the fisherman, however, is that no longer will he be "always on needles and pins, worrying, 'Are ou going to have a few over' " the limit? Jacobsen said.

One of the first signs of the arrival of open fishing on the waterfront was a smiling cod. It was drawn on a broadside published by the local liaison for the fisheries service, John Linehan, and illustrated the minimum length of a cod or haddock as 17 inches and a minimum for a yellowtail flounder as 11 inches.

The size limit is one of the environmental safeguards federal officials point to when defending the plan against fishermen's concerns that it will spark a disaster for the fish stocks. Also, federal officials point out, the plan is intended to run for only two years. with an opportunity to extend it for a third.

More than two years in the planning, the open-fishing regulations grew out of the uneven nature of prior federal fish quotas. Fishermen and processors had complained that by the time regulations made their way through the federal paper mill they were out of date with the situations they were supposed to remedy.

In recent years, also, quotas have given rise to what the industry has come to term "night riders." Some fishing boat captains or owners, finding themselves with excess fish, will unload to night riders. Income from these sales is not usually reported.

"This should eliminate the night riders," said Paul P. Swain, statistician for the National Marine Fisheries Service in New Bedford. "They won't have any purpose."

NINETY-SEVENTH CONGRESS

WALTER B. JONES, N.C., CHAIRMAN

[illegible]
NORMAN D. SHUMWAY, CALIF.
JACK FIELDS, TEX.
ROY DYSON, MD.

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room [illegible], Longworth House Office Building
Washington, D.C. 20515

December 1, 1981

Honorable Malcolm Baldrige
Secretary
Department of Commerce
Commerce Building
14th and Constitution
Washington, D.C. 20230

Dear Mr. Secretary:

In early November of this year the New England Regional Fishery Management Council submitted its Interim Fishery Management Plan for Atlantic Groundfish. It is my understanding that you indicated in a July 24, 1981, letter to the Council that the Plan, once received, would be acted on expeditiously. Now that the Plan is in the hands of the National Marine Fisheries Service (NMFS), this is to request that you make every effort to ensure that your commitment is carried out.

Under Section 304 of the Fishery Conservation and Management Act, you are required to notify the Council in writing of your approval, disapproval, or partial disapproval of a Council plan within 60 days of receipt of that plan. I have been advised that NMFS is now reviewing the Interim Plan to determine its recommendations. The NMFS is to be complimented on the speed with which it has moved on the Plan to date. It is my hope that this willingness to move rapidly will be sustained. If the NMFS recommendation is that the Plan be approved, a decision will be necessary as to whether it can be implemented on an emergency basis pursuant to Section 305(e) of the FCMA. Even if the conclusion is that it can be so implemented, I recognize that you will be faced with the requirements of the Regulatory Flexibility Act, the Paperwork Reduction Act, and Executive Order 12291. I trust that these requirements will not become a rationale for further unnecessary delays.

I am aware that concern has been expressed about the Plan by some elements of the U.S. fishing industry, particularly with respect to the removal of total allowable catch limits on cod and haddock, the elimination of trip limits, and the lack of a defined termination date for the Interim Plan. Accordingly, while urging you to move expeditiously on the Plan, I do not wish to prejudge whether the Plan is consistent with the national standards and other applicable law.

You may be aware of the fact that on November 17, 1981, a bill was introduced in the House of Representatives to improve fishery conservation and management under the FCMA. A large part of the impetus behind some of the provisions of this bill, H.R. 5002, was the perception of the Regional Councils and the fishing industry, in general, that legitimate conservation and management objectives of the FCMA have been frustrated, and the interests of the fishing industry left unprotected, due to excessive delays in the management plan process. The effective management of natural resources simply cannot be accomplished if important decisions are delayed interminably. I hope that the necessary decisions on the Interim Plan can be made, and appropriate actions taken in a timely manner, so that all those persons participating in the fishery management process will perceive that process as a cooperative arrangement between the Federal Government and the people it serves.

Sincerely,

Walter B. Jones
Chairman
Committee on Merchant Marine
and Fisheries

WBJ:bmc

#1 - 12/8/81

NEW ENGLAND REGIONAL FISHERY
RECEIVED
NOV 16 1981
MANAGEMENT COUNCIL

NATIONAL FISHERIES INSTITUTE, INC.

1101 CONNECTICUT AVENUE, N.W. ■ WASHINGTON, D.C. 20036 ■ (202) 857-1110

November 11, 1981

Secretary Malcolm Baldrige
Department of Commerce
5854 Main Building
14th Street bet. Constitution Ave. &
E Street, N.W.
Washington, D.C. 20230

Dear Mr. Secretary:

Recently the New England Fishery Management Council submitted the "Interim Fishery Management Plan for Atlantic Groundfish" to your Department for approval and publication of implementing regulations. In summary, the plan departs from the current quota of management strategy for the fishery and provides for regulation of the cod, haddock and yellowtail flounder fisheries through the implementation of more effective mesh size regulations, minimum fish size and requirements, spawning area closures and data collection. The need for the new plan is based on a broad consensus that the current groundfish plan has been unsatisfactory from the very beginning. The plan added many layers of regulation including trip limits, quarterly quotas and vessel class allocations in an effort to equitably manage the fishery. Since the plan's enactment, significant changes in the composition of the fleet and improved recruitment to the cod, haddock and yellowtail stocks, more rapidly than projected by the fishery managers, have further complicated the management process.

In the opinion of the Institute the failure to adequately address the short term management concerns will further erode the industry's confidence in the management process and will make it more difficult to adequately address long-term management issues.

In order to address these long-term concerns, a management regime must be implemented which will provide an adequate level of continued protection for the Atlantic groundfish resource and permit the fishery to proceed in a more free market oriented environment. This free market activity will enable the Council to evaluate more accurately the capacity and capability of the current domestic fleet and shoreside industry which, up to this point, have been impacted by the significant restrictions placed on the industry's performance.

Based on our representation of many of the companies involved in the Atlantic groundfish fishery, we believe that there is a strong industry consensus in favor of early implementation of the Council's recommendations. The Institute, therefore requests your office to expeditiously consider the plan, including an evaluation of possible exemption from the processess required under the National Environmental Policy Act, as well as the implementation, at an appropriate point, of emergency regulations. More than two years has been expended in the development and preparation of the plan. To take more than 200 additional days to complete the Department's evaluation of the plan and implementation of regulations will, unfortunately, illustrate the undue amount of delay presently embodied in the management plan process.

Your consideration of the Institute's recommendations is deeply appreciated. If I can be of any further assistance with regard to this matter, please do not hesitate to contact me.

Sincerely,

Gustave Fritschie

Gustave Fritschie
Director of Government Relations

GF/jsm

cc: Douglas G. Marshall, Executive Director
New England Fishery Management Council
NFI Members, Region I and VII

LITERATURE CITED

Anderson, E. D., F. E. Lux, and F. P. Almeida. 1979. The silver hake stocks and fishery off northeastern United States. NEFC, Woods Hole Lab. Ref. Doc. No. 79-28. 25 pp.

Clark, S. 1976. Georges Bank (Subdiv. 5Ze) haddock status report. Ann. Meet. Int. Comm. Northw. Atlant. Fish. Res. Doc. No. 76/VI/35, 8 pp.

Clark, S. H. and J. E. Palmer. 1977. Assessment of the haddock stocks in the Gulf of Maine - Georges Bank area. NEFC, Woods Hole Lab. Ref. Doc. No. 77-13.

Hennemuth, R. C., B. J. Rothschild, L. G. Anderson, and W. A. Lund, Jr. 1980. Overview document of the Northeast Fishery Management Task Force, Phase 1. NOAA Technical Memorandum NMFS-F/NEC-1. 12 pp.

Marchesseault, G. D., R. P. Ruais, and D. Wang. 1980. History and status of the Atlantic Demersal Finfish Fishery Management Plan. NOAA Technical Memorandum NMFS-F/NEC-2. 15 pp.

Pierce, D. E. and P. E. Hughes. 1979. Insight into the methodology and logic behind National Marine Fisheries Service fish stock assessments, or how did you guys come up with those numbers, anyway? Mass. Div. Marine Fisheries/CZM. 17 pp.